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Ontario. Legislative Assembly. [Committees]
Select committee on the Municipal Act and
related acts.

Second Interim Report



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Second Interim Report
of
Select Committee
on
THE MUNICIPAL ACT
AND RELATED ACTS

March, 1963



Second Interim Report

of

Select Committee



THE MUNICIPAL

AND RELATED ACTS

March 1969

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ACKNOWLEDGEMENTS

The Select Committee invited the presentation of briefs or submissions in a letter sent to the clerk of each municipality in May 1961 and also in an advertisement inserted in the daily and weekly newspapers of the Province of Ontario in the Fall of 1962. The Committee wishes to thank the many municipal councils, local boards, municipal officials, associations and individuals for the thoughtful consideration given to the matters presented in the many excellent submissions received.

Recognized authorities on various aspects of municipal legislation and municipal government, the Clerk of the Legislative Assembly, many senior civil servants of the Department of Municipal Affairs, the Conservation Authorities Branch of the Department of Lands and Forests, the Municipal Roads Branch of the Department of Highways, the Mines Inspection Branch of the Department of Mines and the Chairman of the Ontario Municipal Board met with the Select Committee on The Municipal Act and related Acts and their assistance is gratefully acknowledged.

The Committee also wishes to thank Mr. James A. Taylor, Legal Counsel, Mrs. H.G. Rowan, C.A., Secretary, and Mrs. E. Eaton for their assistance and advice.

MEMBERS OF

SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

| | |
|---|---------------|
| Hollis E. Beckett, Q.C., Chairman | York East |
| * Rheal Belisle | Nickel Belt |
| Alfred H. Cowling..... | High Park |
| Arthur D. Evans | Simcoe Centre |
| George T. Gordon | Brantford |
| Donald H. Morrow | Ottawa West |
| Ron K. McNeil | Elgin |
| Vernon M. Singer, Q.C. | York Centre |
| Thomas D. Thomas | Oshawa |

| | |
|------------------------------|-----------------------------------|
| James A. Taylor | Legal Counsel to the Committee |
| (Mrs.) H.G. Rowan, C.A. | Secretary to the Committee |
| (Mrs.) Edna Eaton | Assistant to the Secretary |

- * Mr. Belisle resigned as a Member of the Legislature on February 5th, 1963, to accept an appointment to the Senate of Canada.

The Honourable the
Legislative Assembly of the
Province of Ontario.

Parliament Buildings,
Toronto, Ontario.
March 28th, 1963.

Honourable Members:

On Monday, March 27th, 1961,
during the Second Session of the Twenty-sixth Parliament,
the following Motion was moved by the Honourable
Leslie M. Frost, Q.C., Prime Minister of Ontario,
and seconded by the Honourable Wm. K. Warrender, Q.C.,
and duly carried:

"Ordered, That a Select Committee of this
House be appointed to enquire into and review
The Municipal Act of the Province and related
Acts, including The Assessment Act, The
Department of Municipal Affairs Act, The
Local Improvement Act, The Ontario Municipal
Board Act and The Planning Act, and the
regulations made thereunder, for the purposes
of modernizing, consolidating and simplifying
such Acts and regulations and making such
recommendations as may be necessary for
their improvement.

And That the Select Committee have authority
to sit during the interval between Sessions and
have full power and authority to call for persons,
papers and things and to examine witnesses
under oath, and the Assembly doth command
and compel attendance before the Committee of
such persons and the production of such papers
and things as it may deem necessary for any
of its proceedings and deliberations, for which
purpose the Honourable the Speaker may issue
his warrant or warrants.

And that the said Committee consist of nine
members, as follows:

Mr. Beckett (Chairman), Messrs. Belisle, Evans,
Cowling, Gordon, Morrow, McNeil, Singer and
Thomas."

On Friday, February 23rd, 1962, the Chairman presented the first Interim Report of the Committee dated November 23rd, 1961. (Appendix A) and on March 2nd, 1962, on Motion by the Honourable J.P. Robarts, Q.C., Prime Minister of Ontario, seconded by Mr. Beckett, it was ordered that the Committee be reappointed to continue with the same membership and same powers and duties as previously established.

An advertisement inviting the presentation of submissions by elected members and appointed officials of municipal governments, local boards, commissions, groups of persons and individuals, was inserted in the daily and weekly newspapers throughout the Province in the Fall of 1962. A total of 125 briefs have been received; 38 from municipalities and 87 from organizations and individuals. (Appendix D)

The Committee sat for 84 days in 1961 and 1962 and received approximately 98 delegations and heard 403 persons appearing in support of their briefs. (Appendix E)

The Committee's study of municipal matters brought to light an avalanche of material which had to be sifted, sorted and used in a pragmatic way. It is trite to say that while good legislation may provide the tools and create the vehicle for sound local government, it does not by itself generate well-administered municipalities. The problem is both legislative and administrative. The people who are being governed are of paramount importance and this thought must be kept constantly to the fore.

It is obvious that the emergence of a well-administered municipality, in accordance with our democratic concept, is not a simple achievement. The

number of persons, who avail themselves of the opportunity to participate in the election of their local council, often bears witness to this fact.

The sphere of local government has constantly expanded until now it not only engages in almost every conceivable social activity, but has become inextricably wedded to individual enterprise.

Less emphasis on the importance of property ownership, and extended franchise and a broader tax base are factors that must be seriously considered in the current operation of municipal affairs. The problem of preserving local autonomy, and at the same time raising revenue locally to finance local needs, permeates the whole fabric of municipal government.

The Committee has not presupposed the sanctity of local self-government, but has come logically to the conclusion that it must be preserved in order to protect, nurture and further develop to maturity our inherent belief in political freedom and personal liberty. This fundamental philosophy can very easily be overlooked in the scramble for efficiency and expediency if too little emphasis is placed on the means of accomplishing a specific result.

In order to preserve local autonomy, it is imperative that local governments have complete jurisdiction and control over matters of purely local nature, including the means of raising revenue to finance these undertakings.

The Municipal Act, The Assessment Act, The Planning Act, The Local Improvement Act, The Municipal Franchise Extension Act and The Voters' Lists Act and the regulations made thereunder are all considered in this Interim Report.

The Municipal Act

The Municipal Act lends itself to considerable amendment, reorganization of material and overall simplification. This is especially so in regard to elections, the voting on by-laws, penalty clauses, actions by and against municipal corporations and matters relating to highways and bridges.

The extension of the municipal franchise to persons not rated as property owners or tenants recognizes the rapid increase of services furnished to people as distinguished from services furnished to property. A corollary of this is a greater participation in the financing of these services by the municipal residents regardless of property ownership.

Local municipalities are classified as cities, towns, villages and townships, with the latter class generally being considered rural. However, the exodus from the cities to the country has entirely changed the nature of many townships, especially those adjacent to large urban communities. They are usually residential and lack the balanced assessment base considered necessary to adequately provide the required services. Many of the powers and duties of the municipality are predicated on its nomenclature and in some instances it is one of the factors used in the calculation of grants made by the Province. The township that is no longer rural may find that it has outgrown its governing legislation. Consideration should be given to the redesignation of the municipalities according to the character of the area, possibly as rural or urban with density of population being an important factor.

The Committee is of the opinion that The Municipal Act, The Assessment Act, The Planning Act, The Local Improvement Act, pertinent sections of The Municipal Franchise Extension Act and Parts I and II of The Voters' Lists Act be modernized, simplified and consolidated.

Recommendations for amendment to The Municipal Act are set forth on Pages 12 to 54.

The Assessment Act

No local government can function without the necessary funds to carry out the legal obligations and fulfill the numerous social responsibilities incumbent upon it if it is to govern in the best interests of the community as a whole. Representations made to the Committee in regard to matters of assessment and taxation far outnumbered any other single subject. Legislation that picks the pocket is quickly felt.

The underlying and persistent fact, which penetrates the whole field of assessment and taxation is that the number, kind and standard of service that the municipality is now called upon to provide is vastly different from those municipal services provided when the assessment legislation was rewritten in 1904.

The present method of municipal finance is outmoded, discriminatory and compounded by contradiction. While the basis of municipal taxation is inseparable from real property, there are in fact two distinct types of services rendered by local governments. Firstly, there is the servicing of 'real property' by providing such services as water, sewers, sidewalks, roads, and fire protection. Secondly, there are the services provided to 'persons', such as education, administration of justice, parks and recreation. Services provided to property should be financed by the owners of property and services provided to people should be financed by the people who reap the benefit.

The Committee does not recommend that services now performed by local municipalities be turned over to the Province for administration. Nor does it recommend that the Province make bigger grants to the municipalities. However, it does recommend a revision or realignment of the source of revenue for the financing of the two distinct classes of services mentioned above.

The present business tax is an anachronism. The multiplicity of rates currently exist without logic and the tax itself has no reference to services furnished.

Further confusion and discrimination is caused by the necessity of setting two mill rates - one for commercial and industrial taxation and the other for farm and residential taxation.

There has been an increasing tendency to exempt the properties of certain institutions from municipal taxation because of their altruistic objects. There are many charitable institutions throughout the Province operated by dedicated and publicly spirited people possessing an intense feeling of civic responsibility and pride. It is the feeling of the Committee that the local municipality can best judge the public contribution of these institutions, and accordingly recommends that there be no general exemptions from taxation but rather that all future exemptions of properties used by these institutions be left to the discretion of the local council. In this way the local council and inhabitants will be kept aware of the real property which is not being required to pay what would otherwise be its share of the cost of municipal services relating to real property.

A great many of the inequitable assessments throughout the Province of Ontario arise out of the reluctance of assessors to employ a current concept of actual value. The present Assessment Act appears to be abundantly plain in this regard, but nevertheless the evidence presented to the Committee establishes the unalterable fact that the concept of actual value is seldom employed.

Inequities also appear because of a deficiency of properly trained assessors and assessment commissioners. Common sense and sound

business practice may be scarce commodities, but no assessment manual can legislate or impart these qualities. Proper training facilities should be made available to every person who aspires to assess, and the Committee feels that it is incumbent upon the Province of Ontario to not only provide such facilities, but also to licence those persons who become chief assessors in the same manner as municipal auditors.

It has been argued that assessing should be done on a county basis, with a single assessment commissioner for the entire county. However, after careful consideration, the Committee is of the opinion that such a proposal should not be forced upon the local municipalities. They now have the option of retaining their own assessment commissioner, sharing an assessment commissioner with one or more municipalities, or transferring the field of assessment to a county assessment commissioner to administer. This freedom of choice should remain on the premise that whoever performs the function would be qualified and licensed accordingly.

Appeals should be made directly from the courts of revision to a special tribunal, and, on questions of law, to the Ontario Court of Appeal. The time for all appeals should be uniform. The special tribunal referred to might be the one that the Select Committee on Land Expropriation recommended be appointed by the Government of Ontario to assess compensation on expropriation and deal with matters where the valuation of property is significant.

Recommendations for amendment to The Assessment Act are set forth on Pages 55 to 78.

The Planning Act

Community Planning is a relatively recent governmental adventure in the Province of Ontario

that has not been fully accepted by the people. The first Planning Act as such was passed in 1946, although a thread of planning can be traced back to 1913.

Our heritage of freedom of activity, sanctity of property and a general predilection against government regulation and control has no doubt contributed to the citizens' suspicion of modern planning technique.

The difficulty of planning semi-developed communities, combined with the often experienced inability to plan in toto, has focussed attention upon the inequities made apparent by partial planning. The picture of perfection often painted of a planned community does little to incite public confidence in planning when that ideal is seldom achieved.

A rapidly increasing population and the automobile has forced the horizontal expansion of our communities with the resulting myriad of problems. Distance is measured by minutes rather than miles in the physical movement of people. However, roads, sidewalks, sewers, watermains and the other public utilities cannot be constructed and financed in minutes. It is imperative that effective planning legislation be available to local municipalities to control and direct the development of their communities.

There is considerable argument in favour of creating more natural municipal boundaries with particular reference to the watersheds that dictate the development of any sanitary and storm sewer drainage pattern. However, it is indeed difficult to discover a catalyst which would operate quickly to create more logical municipal boundaries and at the same time produce financially and functionally sound political units. This is not to say that some degree of planning should not be undertaken on a broader scale than at present.

Similar services are often constructed and maintained by different levels of government depending on the magnitude of the undertaking and the area to be serviced. Obvious examples are highways, and to an ever-increasing degree, trunk sewers and water systems.

It is easy to fall prey to expediency in the solution of our problems. To impose from above may be a convenience of the moment but in the long run a transgression of civic freedom and personal choice. Local autonomy and the established ease of communication between the governed and those who govern should not be lightly disturbed.

Recommendations for amendment to The Planning Act are set forth on Pages 79 to 92.

The Local Improvement Act

A local improvement is a work that benefits a particular area only or the properties on a certain street. By the same token, the cost of the work is borne by the owners of the property specially benefited as opposed to the municipality as a whole. A property owner's portion of the cost is commensurate with the degree of benefit his property enjoys and elaborate procedure ensures that the cost is equitably assessed.

The Local Improvement Act enunciates a sound principle and permits a wide range of municipal services to be constructed in this manner. The Municipal Act gives authority to municipalities to regulate the method of making private sewer connections to a sewer system and the consent of the municipality is necessary in this regard. The municipal council can also require the owners of land to make connections into a municipal sewer. The Ontario Water Resources Commission Act must be

complied with, and the approval of the Commission is necessary prior to undertaking such local improvement works as the laying of sewers and watermains.

It is difficult indeed to entirely divorce all of the statutes dealing with municipal matters so as to render them independent and complete in their own right. The fusion of the various statutes would be equally difficult and extremely illogical. However, the re-arrangement of the subject matter of The Local Improvement Act, the adoption of the following recommendations and the consolidation of this Act with The Municipal Act, The Assessment Act and The Planning Act would prove to be of some practical value.

Recommendations for amendment to The Local Improvement Act are set forth on Pages 93 to 102.

The Municipal Franchise Extension Act - and
The Voters' Lists Act.

Coincident with the Committee's recommendation that municipalities with similar characteristics should have similar powers regardless of nomenclature is the belief that the franchise should extend to every Canadian citizen over 21 years of age who has resided in the municipality for at least one year prior to the election. The government of a municipality should not be tied to real property interests nor should the ownership of real property be the sole criterion for eligibility to pay taxes.

The Municipal Franchise Extension Act gives all municipalities permission to extend the vote and provides for the preparation of a resident voters' list.

Parts I and II of The Voters' Lists Act pertain to the preparation of the voters' lists. It is unnecessary to retain this legislation in

the present form. Instead the pertinent provisions of The Municipal Franchise Extension Act should be incorporated into The Municipal Act along with Parts I and II of The Voters' Lists Act as amended.

Recommendations for amendment to The Municipal Franchise Extension Act and The Voters' Lists Act are set forth on Page 103.

THE MUNICIPAL ACT
R.S.O. 1960, C.249
as amended in 1960-61 and 1961-62

RECOMMENDATIONS

Observations: It has been recommended that all the Acts which contain legislation pertaining exclusively to municipalities should be embodied in The Municipal Act. The Acts referred to are The Assessment Act, The Local Improvement Act, The Planning Act, The Voters' Lists Act - Parts I and II and The Municipal Franchise Extension Act. Consolidation would be effected by treating each of the subjects as a separate part of The Municipal Act.

Recommendation: That there be one Interpretation Section containing the general interpretations applicable to the Acts being consolidated.

PART I
FORMATION, ERECTION, ALTERATION OF
BOUNDARIES, AND DISSOLUTION OF
MUNICIPALITIES, ETC.

SECTION 11

Observations: This section permits a village or town having a population of not less than 15,000 to make an application for erection into a city but requires a township to have a population of not less than 25,000 before a similar application may be made. There is no necessity for distinguishing between towns, villages and townships in this regard.

Recommendation: That towns, villages and townships having a population of not less than 15,000 may make application to the Ontario Municipal Board to be erected into a city.

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SECTION 13

Observations: This section provides that the Ontario Municipal Board must divide a city and, at its discretion, may divide any other local municipality into wards.

Recommendation: That there be permissive legislation enabling any municipality to divide itself into wards and this power should not be mandatory in the case of cities.

SECTION 14

Observations: This section relates to the matter of amalgamations and annexations. The Registry Act provides for the registration of the municipal by-law as well as the order of the Ontario Municipal Board. As the order of the Ontario Municipal Board defining the boundaries of lands to be annexed are quite often dissimilar from the boundaries of the lands which a municipal corporation proposes to annex, there is no apparent need for perpetuating conflict by the registration of both documents.

Recommendation: That a municipality be required to register only the Ontario Municipal Board Order in connection with an amalgamation or annexation proceeding.

Observations: This section also contains a definition of a local board which might better be inserted in the General Interpretation Section of the Act.

Recommendation: That the definition of "local board" be inserted in the General Interpretation Section of the Act.

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Observations: The use of the words "Canadian Citizen" would be more appropriate than "British Subject" and the necessary changes where these words occur should be made.

Recommendation: That the words "Canadian Citizen" be substituted for the words "British Subject" wherever they occur.

Observations: The Committee has recommended an extension of the franchise to all Canadian Citizens 21 years of age or over who have resided in the municipality for at least one year prior to the election. (Sec. 37 - P.18)

Recommendation: That all persons entitled to vote at municipal elections be permitted to vote on matters pertaining to annexations and amalgamations.

Observations: The present section contemplates a vote in certain circumstances by the people of the municipality initiating the application for amalgamation or annexation. The Committee is of the opinion that the people in the municipality proposed to be annexed should similarly have a say in the proceedings. In every instance the people to be annexed to or amalgamated with another municipality should vote on the question in addition to the people of the municipality initiating an application for annexation or amalgamation so that everyone affected expresses his view. The result of this vote should be filed with the Ontario Municipal Board at the time the application is being considered and weighed as a factor in the proceedings prior to making an order.

Recommendation: That no application for annexation or amalgamation be permitted until the matter is referred to and voted on by the people in the municipality applying for the annexation or amalgamation and also the people in the municipality which is proposed to be annexed or amalgamated.

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That the result of the vote be filed with the Ontario Municipal Board and considered as one of the factors in the proceedings.

Observations: Representations were made that municipal employees and their conditions of employment should be considered on an application for annexation or amalgamation.

Recommendation: That on an application for annexation or amalgamation employee relations and conditions of employment and all disputes in connection therewith shall be considered and arbitrated by the Ontario Municipal Board.

SECTION 24

Observations: The legislation dealing with the creation and operation of inter-urban areas was enacted in 1954 and the Committee was informed that it has been applied only once. Section 250a enacted at the 1961-62 Session of the Legislature permits a local municipality to pass by-laws for entering into and performing any agreement with any other council for executing, at their joint expense and for their joint benefit, any work within the jurisdiction of the council. It has been suggested that section 24 might be deleted. The pertinent parts of section 25 would also have to be deleted in so far as they apply to inter-urban areas.

Recommendation: That section 24, section 25 (1)(e) and section 25 (3) be repealed.

SECTION 25

Observations and

Recommendation: See section 24 where it is recommended that section 25 (1)(e) and section 25(3) be repealed.

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PART II MUNICIPAL COUNCILS - HOW COMPOSED

SECTION 34

Observations: The Committee is of the opinion that every Canadian Citizen 21 years of age and over who has resided in the municipality for at least one year next preceding the date of the election should be qualified to sit on council in addition to those persons qualified to sit on council by virtue of section 34.

Recommendation: That this section be amended to extend the right to sit on council to those persons 21 years of age or over who are Canadian Citizens and have resided in the municipality for at least one year next preceding the date of the election.

SECTIONS 35, 36 and 198a

Observations: The moral and ethical standards of a municipal council reflect the moral and ethical standards of a community. You can no more legislate private conscience than you can public morals. However, it is possible to guide and direct persons in public office so that they do not become entangled in the net of self-interest. This is especially important today because of the size and complexity of government which often obscures a possible conflict between public and private interest.

It is essential to appreciate that a person serves in a public office for the good of the community and at no time must he permit personal gain to come into conflict with public trust. He must accept responsibility with honour, duty with respect. He should act at all times in good faith and in an impartial and even-handed way. Only under these circumstances will the stigma be removed from political ambition.

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However, the public test of sterling standards must not be so stringent and exacting as to disqualify all but deities from holding public office. An earthly and realistic approach is necessary to attract persons of integrity, enterprise and ability.

At present there are certain people who may be disqualified from sitting on council because of their position as a director, manager, treasurer, secretary-treasurer or agent. These persons, along with their fellow citizens should not be discouraged from seeking public office.

Sections 35, 36 and 198a should be completely rewritten so as to emphasize disclosure, not disqualification. The restriction prohibiting a member of council from having a pecuniary interest in a contract or proposed contract with a council should be lifted, provided disclosure is made of his interest and he abstains from any discussion relating thereto and the voting thereon.

It should be made crystal clear that disclosure of interest by a councillor includes any private interest, financial or otherwise, direct or indirect, in any proposed legislation. Failure to disclose should result in forfeiture of office.

Recommendation: That sections 35, 36 and 198a be completely rewritten and combined to ensure that a person is not disqualified from holding public office because a conflict of interest situation arises.

That a full disclosure be made by a councillor when a conflict of interest arises and that such disclosure be recorded.

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That any member of a council, commission or board as defined in The Department of Municipal Affairs Act, who knowingly fails to disclose any personal interest, pecuniary or otherwise, in any proposed legislation, regulation or matter and who does not absent himself from the room during consideration or discussion thereof, or voting thereon, automatically vacates his office and is disqualified from holding any public office for a period of two years therefrom.

PART III MUNICIPAL ELECTIONS

SECTION 37

Observations: This section sets out these persons who are qualified to be entered on the voters' lists to vote at municipal elections. In addition to those persons who are presently entitled to vote because they are property owners or tenants and otherwise qualify under this section should be added those Canadian Citizens who are of the full age of 21 years and have resided in the municipality for one year next preceding the date of the election.

Recommendation: That the franchise be extended to those persons who are Canadian Citizens of the full age of 21 years and who have resided in the municipality for one year next preceding the date of the election.

SECTION 40

Observations: This section provides that any person whose name appears on the defaulters' list is disqualified from voting. The defaulters' list is prepared under section 83 and lists those persons whose taxes are in default and unpaid. Section 379(1), para. 51 enables municipalities to pass by-laws disqualifying an elector whose taxes are overdue from voting. These sections should be combined with section 40.

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Recommendation: That sections 40, 83(1) and 379 (1), para. 51 be rewritten and brought under section 40.

SECTIONS 43 and 44

Observations: Section 43 provides for the nomination day to be the last Monday in December and the polling day to be the first Monday in January next thereafter. Section 44 gives some discretion to local councils to fix the nomination and polling days other than as provided for in section 43 (1). Section 184 sets out the first meeting of council of a local municipality. The Committee feels that sections 43 and 44 should be rewritten and combined and that section 184 should be amended accordingly.

Recommendation: That sections 43 and 44 be rewritten and combined to fix the nomination day and polling days for all municipalities, local boards and commissions as the last Monday in December and the first Monday in January next thereafter, respectively. It is recommended that subsection 3 of section 44 which permits a township to hold its nomination meeting in a neighbouring municipality be preserved.

That section 184 be amended
accordingly.

SECTION 56

Observations: Subsection 2 of section 56 provides that in cities having a population of not less than 100,000 persons the returning officers and deputy returning officers are appointed on the recommendation of the clerk. This subsection should be of general application to all municipalities.

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Recommendation: That subsection 2 of section 56 should apply to all municipalities.

SECTION 66

Observations: Subsection 4 of section 66 provides that where a deputy returning officer does not show in a city having a population of 100,000 or over the poll clerk becomes the deputy returning officer and he appoints a new poll clerk. The Committee feels that this section should have general application to all municipalities.

Recommendation: That subsection 4 of section 66 be amended so that the provisions thereof shall apply to all municipalities.

SECTIONS 71 and 72

Observations: Sections 71 and 72 provide for various forms of ballot papers depending upon the class of the municipality and whether or not divided into wards.

Recommendation: That sections 71 and 72 be combined and simplified to provide for one form of ballot paper for the election of all offices in all classes of municipalities and that there be only two sets of ballot papers, one for municipalities divided into wards and one for municipalities not divided into wards.

SECTIONS 75, 76 and 91

Observations: These sections relate to polling places. Section 91 as amended (see pp.21 and 22) should be combined with section 60 which pertains to the using of public and separate schools as polling places.

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Recommendation: That section 91 as amended be combined with section 60 and that sections 75 and 76 follow section 61.

SECTIONS 79 to 82

Observations: Section 79 provides that the list of voters to be used is the last one certified under The Voters' Lists Act.

Sections 79 to 82 should be amended in view of the recommendations that Parts I and II of The Voters' Lists Act be incorporated with The Municipal Act and the franchise extended to include all Canadian Citizens 21 years of age and over and resident in the municipality for one year next preceding the election.

The resident voters' list will have to be prepared in addition to the voters' list prepared from the assessment roll.

Recommendation: Sections 79 to 82 should be amended to make provision for the use of the last resident voters' list.

SECTION 83

Observations and

Recommendation: That subsection 1 be rewritten and brought under section 40.

SECTION 91

Observations: The provisions of section 91 should be extended to enable the municipal council by by-law to declare any hospital, home for senior citizens, or other institution as a polling place, at which place the patients or occupants who are entitled to vote may vote.

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Recommendation: That this section be amended to enable a municipal council to declare by by-law any hospital, home for senior citizens, or other institution as a polling place at which place the patients or occupants who are entitled to vote may vote.

SECTION 97

Observations: Several of the briefs submitted have mentioned the large number of ballots spoiled by the use of a mark other than a cross and recommendations were made that the marking of a ballot with other than a cross should not constitute a spoiled ballot. The Committee is of the opinion that any type of mark placed in an allowed position should constitute a legal marking of the ballot.

Recommendation: That any type of mark placed in an allowed position constitute a legal marking of the ballot.

SECTION 103

Observations: Representation was made that some persons permitted to remain in the polling place have subsequent to the closing of the polls, entered or re-entered the polling place. This is not a desirable practice.

Recommendation: That this section be amended so that no person shall be permitted to enter or re-enter the polling place after the time of the closing of the polls.

SECTION 105

Observations: In municipal elections the circulation on polling day of any advertising pertinent to the elections is prohibited. Similar restrictions are

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not applicable to provincial elections. The Committee feels that identical regulations should govern municipal and provincial elections.

Recommendation: That section 105 be deleted.

SECTION 114

Observations: This section deals with ballot boxes and subsection 2 of section 114 deals with the return of ballot boxes in cities and towns. This subsection 2 should be of general application to all municipalities.

Recommendation: That subsection 2 of section 114 apply to all municipalities.

SECTION 116

Observations: This section restricts the delivery of the ballot box in a city or town to the office of the clerk. This legislation should be of general application to all municipalities.

Recommendation: That section 116 apply to all municipalities.

SECTION 120

Observations: This section contains a reference to The Public Health Act for legislation applicable to the postponement of an election on account of an epidemic or contagious disease. The Committee considers that this legislation should be included in The Municipal Act as an addition to section 120.

Recommendation: That section 123 of The Public Health Act be added to section 120 of The Municipal Act.

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SECTIONS 121 and 122

Observations: Sections 121 and 122 relating to "Recount", sections 151 to 177 inclusive pertaining to "Procedures to Declare Seat Vacant" and section 273 pertaining to "Scrutiny" are similar in some respects.

Recommendation: That sections 121 and 122 dealing with "Recounts", sections 151 to 177 inclusive dealing with "Proceedings to Declare Seat Vacant" and section 273 dealing with "Scrutiny" be all placed in one Part and that the procedure be made as similar as possible in regard to such matters as time of application and recognizance.

That the procedure in these matters be the same for municipalities and local boards as defined in The Department of Municipal Affairs Act.

SECTION 139

Observations: This section provides that no person shall inspect any ballot paper in the custody of the clerk except under the order of a judge or officer. It was suggested that this restriction should apply to any book, paper or document used in the election.

Recommendation: That the inspection of any document related to an election shall require the order of a judge or officer as is now applicable to ballot papers.

SECTIONS 144 to 150 Inclusive

Observations: Sections 144 to 150 dealing with vacancies in council are in Part III of the Act headed "Municipal Elections". The Committee is of the opinion that these sections should be in Part II headed "Municipal Councils - How Composed".

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Recommendation: That sections 144 to 150 inclusive be in Part II "Municipal Councils - How Composed", as amended.

SECTIONS 148, 149 and 150

Observations: Section 148 presently provides that a new election must be held forthwith where a vacancy occurs in council except for the office of controller. This section is subject to sections 149 and 150. Section 149 provides that no election is held where an alderman or councillor is elected by general vote. In this circumstance the person obtaining the next highest number of votes takes office and in case of a tie the person having the highest assessment takes office. Section 150 provides that where an alderman or councillor is not elected by general vote then the council elects someone to fill the vacancy. The Committee is of the opinion that a uniform and simplified procedure should be implemented for the filling of any vacancy on council in any class of municipality.

Recommendation: When a vacancy occurs in the office of a member of council, the council may appoint a person qualified under this Act to be a member of council to fill the office for the remainder of the term or may hold a new election to fill the vacancy.

PART IV PROCEEDINGS TO DECLARE SEAT VACANT

SECTIONS 151 to 177 Inclusive

Observations and

Recommendation: These sections have been dealt with under sections 121 and 122. (see p.24)

SECTION 166

Observations: This section provides for a new election and for the filling of vacancies in circumstances

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where the election of all members of council is judged to be invalid or where it is determined that all of them have become disqualified or have forfeited their seats. This section does not specifically cover a situation where all members of a council have been killed in a disaster.

Recommendation: That section 166 be amended to include a situation where all members of council may have been killed in a disaster.

PART V BRIBERY AND CORRUPT PRACTICES

SECTION 179

Observations: This section regulates the transportation of voters to the poll. A similar provision is not to be found in The Election Act of the Province. The Committee feels that this section is outmoded.

Recommendation: That section 179 be deleted.

PART VI MEETINGS OF MUNICIPAL COUNCILS

SECTION 184

Observations: In view of the Committee's recommendation that nomination day be the last Monday in December and that the polling day be the first Monday in January for all municipalities, local boards and commissions, section 184 should be amended to permit that the first meeting of a local council be held on the second Monday in January and the first meeting of a county council be held on the third Tuesday in January and not otherwise.

Recommendation: That section 184 be amended to make it mandatory that the first meeting of a local council be

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held on the second Monday in January and that the first meeting of a county council be held on the third Tuesday in January.

SECTIONS 187, 188 and 189

Observations: Section 187 provides that the first meeting of a county council shall be held in the county hall, or if there is none, at the court house. Section 188 provides for the holding of subsequent meetings at such place as the council may appoint. Section 189 permits the meetings to be held in an urban municipality located within the county boundaries. Township councils are permitted to meet in an adjacent urban municipality or township located in the same county. These sections should be combined and revised to give directions regarding the holding of council meetings in all classes of municipalities.

Recommendation: That sections 187, 188 and 189 be combined and amended to provide that the councils of municipalities may hold meetings in the following locations, (a) county council - anywhere within the county, (b) cities, towns and villages - within the confines of the municipal boundaries, and (c) townships - within the confines of the township boundaries or within an adjacent urban municipality.

SECTION 190

Observations: The general principle that meetings of municipal councils and local boards shall be open to the public is restricted by the exception of certain defined bodies. The Committee is of the opinion that all meetings of municipal councils and local boards should be open to the public except when a resolution in writing is passed declaring that the meeting shall not be open to the public. Section 199 dealing with the adjournment of council meetings should be transferred to this section.

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Recommendation: That section 190 be amended to make provision that the meetings of every council and of its committees and of every local board as defined by The Department of Municipal Affairs Act, shall be open to the public except when a resolution in writing is passed declaring that the meeting shall not be open to the public.

That section 199 be transferred
to section 190.

SECTION 193

Observations: This section deals with the place of special meetings. Should the recommendations made with regard to sections 187, 188, 189 and 190 be adopted this legislation is no longer required.

Recommendation: That section 193 be deleted.

SECTIONS 196 and 197

Observations: The Committee is of the opinion that when a member of council is disqualified to vote by reason of interest or otherwise he should absent himself from the council chamber during the discussion of the matter and the voting thereon and that every member of council who is present and not disqualified to vote shall not be permitted to abstain from voting.

Recommendation: That sections 196 and 197 be consolidated and revised to additionally provide that any member of the council who is disqualified to vote by reason of an interest or otherwise shall absent himself from the council chamber during the discussion and the voting thereon. Every other member shall vote on the matter.

SECTION 198

Observations: This section prohibits a member

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of council from voting on any by-law appointing him to any office. The words "in the gift of the council" are redundant and should be deleted.

Recommendation: That section 198 be amended by deleting the words "in the gift of the council".

SECTION 198a

Observations and

Recommendation: This section has been dealt with under sections 35, 36 and 198a. (See pp. 16 to 18)

SECTION 199

Observations: It has been recommended that this section which deals with the adjournment of council meetings be transferred to section 190 which deals with open meetings.

Recommendation: That section 199 be transferred to section 190.

PART VII BOARDS OF CONTROL

SECTIONS 201 to 207 Inclusive

Observations: It has been suggested that the functions of a board of control might be performed adequately by a committee of council. However, should it be desired to continue the present form of administration it does not appear logical that a board of control be mandatory in a city having a population of 100,000 or over with provisions for the passing of a by-law dispensing with a board of control by a two-thirds vote of all the members of the council, while other local municipalities of similar population and cities having a population of 45,000 to 100,000 require a vote of two-thirds of all the members of the council to pass a by-law establishing a board of control.

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The establishment of a board of control should be left to the discretion of the council of the local municipality and the restriction to municipalities of not less than 45,000 population should be removed. The Committee is also of the opinion that the powers and duties of a board of control should be set out in the by-law passed by council. Permission should be given to municipal councils to permit the boards of control to exercise any of the powers and duties of council.

Recommendation: That local municipalities be empowered to establish boards of control by by-law passed by a majority of the municipal council and the powers and duties of the board of control be set out in the said by-law. Sections 202 to 207 inclusive be amended accordingly.

PART VIII OFFICERS OF MUNICIPAL CORPORATIONS

Observations: In recent years in some of the larger municipalities there has developed a need for a new type of administrative official. The duties of this person are designated by the council and usually include administration of office procedure, coordination of departments, and, to the extent desired, liaison between the departments and council. Several municipalities have appointed such an official but the legislation does not specifically make provision for this appointment.

Recommendation: That legislation be enacted to enable a council to employ a manager or general administrative head to be known as the municipal administrator or manager whose powers and duties shall be set out by by-law.

SECTION 222

Observations: The treasurer is required to prepare and submit to council half-yearly a statement of the money at the credit of the corporation. A statement which

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may conform to the requirements will not necessarily provide council with the information required as a basis for making sound financial decisions.

Recommendation: That section 222 be amended to require that every treasurer shall prepare and submit to the council, half-yearly, a full financial statement.

SECTIONS 225 to 227 Inclusive

Observations: These sections relate to assessment matters and should be transferred to the Part of the Act dealing with assessment. Section 227 is similar to section 93b of The Assessment Act and should be repealed. (see p.74)

Recommendation: That sections 225 and 226 be transferred to the Part of The Municipal Act pertaining to assessment and section 227 be repealed.

SECTION 226

Observations: Subsection 6 of section 226 states that in a municipality which has an assessment commissioner, all assessment notices which otherwise should be sent to the clerk shall be sent to the assessment commissioner. The Committee considers that this change in the person to be notified may be confusing to the person wishing to file a notice and may be responsible for the notice not being filed within the time limit and thus prejudicially affect the case of the person making the notification. The clerk is the municipal officer who traditionally receives all notices and transmits these to the officers and departments concerned and the Committee can see no reason for varying the procedure.

Recommendation: That subsection 6 of section 226 be amended to require that all notices in matters relating to assessment be sent to the clerk and not to the assessment commissioner.

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SECTION 234

Observations: The Committee is of the opinion that municipal officials whose duties entail the handling of municipal funds should be required to furnish the council with security for the faithful performance of their duties. Subsection 7 makes this section applicable to the treasurer and every other officer of a local board as defined in The Department of Municipal Affairs Act with the exception of a school board. The Committee can see no reason for the exemption of the officials of the school board. The Committee is also of the opinion that every municipal official should annually give security for the faithful performance of his duties.

Recommendation: That section 234 be amended so as to include the officials of a school board. That every officer of a municipal corporation be required to annually give security for the faithful performance of his duties.

SECTION 236

Observations: Should the legislation be amended to permit the appointment of a municipal administrator or manager he should be required, along with the municipal officials named in subsection 1, before entering on the duties of his office to make and subscribe a declaration of office. The Committee is also of the opinion that the members and officials of local boards as defined in The Department of Municipal Affairs Act should be required before entering on the duties of the office to make and subscribe a declaration of office similar to Form 20.

Recommendation: That section 236 be amended to include municipal administrator or manager and that every member and official of any local board as defined in The Department of Municipal Affairs Act make a declaration similar to Form 20 before entering on the duties of his office.

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SECTION 241

Observations: Section 241 deals with judicial inquiries in relation to municipal matters and section 320 relates to judicial inquiries into financial matters. There is no reason why a uniform procedure could not be adopted in regard to inquiries into all municipal matters.

Recommendation: That sections 241 and 320 be rewritten and combined to provide for a uniform procedure for the initiation of an inquiry, the conduct of same and the payment of costs connected therewith. The inquiry should be initiated by the Minister of Municipal Affairs either in his own right or by request of the municipal council or by 5 per cent of the voters entitled to vote at elections according to the last revised voters' list and/or resident voters' list.

PART IX GENERAL PROVISIONS APPLICABLE TO ALL MUNICIPALITIES

SECTION 242

Observations: Section 9 states that the powers of a municipal corporation are exercised by its council, section 274 deals with the passing of by-laws by council and section 242 states that the powers of every council shall be exercised by by-law. It is suggested that sections 9 and 274 be combined with section 242.

Recommendation: That section 9 which states that the powers of a municipal corporation are exercised by its council and section 274 which deals with the passing of by-laws by council should be rewritten and combined with section 242.

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SECTION 246

Observations: The fiscal year of the Province of Ontario is from April 1st to March 31st and the budget for the ensuing year is presented to the Legislature at the Spring Session. Information regarding the grants which the Province will make to the municipalities is not available until the Provincial Budget is approved. Since the municipality operates on the calendar year basis it is impossible for the council to fix the tax rate early in the financial year. The inevitable delay in presentation of the tax bills results in a small amount of revenue being received during the early months of the year. In order to obtain sufficient operating funds a municipality is frequently forced to borrow and the interest on this loan increases the cost of operation. It has been suggested that adoption of the Provincial fiscal year by all the municipalities and their local boards would decrease the cost of operations and result in a decrease in the tax rate.

Recommendation: That consideration might be given to changing the fiscal year of municipalities and local boards as defined by The Department of Municipal Affairs Act so that they coincide with the fiscal year of the Province of Ontario. (April 1st to March 31st).

That the Province give consideration to the payment of grants to municipalities with the aim of minimizing the municipal temporary borrowing.

SECTION 247

Observations: Subsection 1 of section 247 states that a municipality has the power to license and the power to prohibit the carrying on of or the engaging in any trade, calling, business or occupation without a licence. It was noted that sections dealing with the passing of by-laws to license, regulate and govern also include the revoking of a licence. It was suggested that subsection 1 be amended to contain a full statement of the power of a municipality

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regarding licensing. Section 247 (9) provides that a decision of a board of commissioners of police in refusing or revoking a licence is subject to an appeal therefrom to a Judge of the Supreme Court whose decision is final. No similar provision applies in the case of an appeal from a decision of a council or a licensing commission. The Committee is of the opinion that appeals should be permitted in every instance. The present legislation should accordingly be amended to provide for the right of appeal not only to a Supreme Court Judge but also the Appellate Division of the Supreme Court of Ontario.

Recommendation: That subsection 1 of section 247 be amended to include the power to revoke a licence.

That subsection 9 of section 247 be amended to provide for an appeal to the Supreme Court of Ontario from the decision of a council, licensing commission or police commission.

SECTION 249

Observations: This section permits cities to grant to any person the exclusive right to place and maintain iron waste paper boxes on the streets. This section should be of general application to all municipalities.

Recommendation: That section 249 be amended to apply to all municipalities and that the word "iron" be struck out.

SECTION 250

Observations: This section permits a city to establish and carry on the business of cold storage in connection with or upon the market property of the corporation. This section should be of general application to all municipalities.

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Recommendation: That section 250 be amended to apply to all municipalities.

SECTION 251

Observations: This section deals with the borrowing powers of the council and should be shown prior to section 302 in Part XIV of the Act.

Recommendation: That section 251 be placed prior to section 302 in Part XIV of the Act.

SECTION 252

Observations: Section 252 does not state any procedure by which a municipality is authorized to make the necessary financial arrangements for the carrying out of the joint project. When a joint municipal project is undertaken the debt created is divided among the participating municipalities. Legislation covering the division of the annual debt charges, both principal and interest, and providing for the raising of the amount required in each year is contained in subsection 13 of section 282. The Committee suggests that this should be relocated in section 252 which deals with debentures for joint undertakings.

Recommendation: That section 282 subsection 13 become section 252, subsection 2a.

SECTION 253

Observations: Section 253 deals with the authentication of by-laws. This section should follow either section 243 or section 244.

Recommendation: That section 253 which deals with the authentication of by-laws should follow either section 243 or section 244.

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SECTION 254

Observations: The Committee is of the opinion that the clerk of the municipality should be the only person certifying the sufficiency of petitions.

Recommendation: That section 254 be amended by deleting subsection 2 and the reference to the assessment commissioner.

PART X VOTING ON BY-LAWS

SECTION 255

Observations: Section 255 is an interpretation section and where possible should be transferred to the General Interpretation Section of the Act.

Recommendation: That section 255 be transferred to the General Interpretation Section of the Act where possible.

SECTION 256

Observations: Section 256 deals with corrupt practices and is similar to the provisions pertaining to voting at municipal elections. It is felt that if all the provisions of The Municipal Act applicable to the election of municipal councils were made to apply mutatis mutandis to the voting on by-laws and if the provisions which do not apply were retained and transferred under the relevant heading "Elections" this whole part dealing with voting on by-laws could be deleted. (Sections 256 to 272).

Recommendation: That sections 256 to 272 inclusive which deal with voting on by-laws be transferred to Part III entitled "Municipal Elections".

That all the provisions of Part X applicable to elections of municipal councils be made to

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apply mutatis mutandis to voting on by-laws and that the provisions which do not apply be retained and transferred under the relevant heading "Municipal Elections".

That sections 256 to 272 be
deleted.

SECTION 260

Observations: This section provides that only certain persons may vote on money by-laws and it has been recommended that all persons over 21 years of age with certain qualifications be entitled to vote thereon.

Recommendation: That this section be amended to allow all persons qualified to vote at municipal elections to vote on money by-laws.

SECTIONS 261 and 262

Observations: These sections make provision for the preparation of a list of municipal electors who are entitled to vote on money by-laws and since it is recommended that all persons entitled to vote at an election are entitled to vote on money by-laws, (section 260) this section should be deleted.

Recommendation: That since all persons entitled to vote at an election are entitled to vote on money by-laws it is recommended that sections 261 and 262 be repealed.

SECTION 264

Observations: In a municipality divided into wards a voter is entitled to vote on a money by-law in each ward in which he has the required qualification but on any other by-law or on any question he is permitted only one vote. Thus the number of votes a property owner will have on a money by-law is determined by the number and location

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of the properties. When this legislation was enacted the number of properties owned may have been indicative of the stake of the taxpayer in the municipality, however, the Committee does not believe that this is now a valid criterion for determining the number of votes to which a property owner is entitled.

Recommendation: That section 264 be amended to provide that in municipalities divided into wards the voter is entitled to vote only once on any by-law including a money by-law.

SECTION 265

Observations: This section provides that the clerk, if otherwise qualified, is entitled to vote but not to give a casting vote. Section 41 provides that the clerk of the municipality is not entitled to vote except to give a casting vote as provided in section 119 where the result of the recount indicates that the vote is still tied.

Recommendation: That section 265 be deleted.

SECTION 266

Observations: This section deals with the form of ballot papers and the ballot paper used in connection with the voting on by-laws and questions. The Committee feels that this section should be part of section 72.

Recommendation: That this section should be rewritten and combined with section 72 which deals with the "Form of Ballot Papers".

SECTION 268

Observations: Subsection 2 of this section pertains to the form of oath to be taken by a voter on a money by-law. Since all voters are entitled to vote on all by-laws only one form of oath is necessary.

Recommendation: That subsection 2 of section 268 be deleted.

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SECTION 273

Observations and

Recommendation: This section has been dealt with under sections 121 and 122. (See page 24)

SECTION 274

Observations and

Recommendation: This section has been dealt with under section 242. (See page 33)

SECTION 275

Observations: Section 275 deals with the promulgation of by-laws and should be placed in Part IX of the Act.

Recommendation: That section 275 which deals with promulgation of by-laws should be placed in Part IX - General Provisions Applicable to all Municipalities. This section should follow section 243 or section 244.

PART XI QUASHING BY-LAWS

SECTION 280

Observations: This section provides that an application to quash a by-law must be made within one year with the exception of a by-law that requires the assent of the electors which did not receive such assent.

Recommendation: That this section be amended to provide that all by-laws other than money by-laws may be quashed at any time.

PART XII MONEY BY-LAWS

SECTION 281

Observations: Interpretation of the words

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"rateable property" is contained in this section. The Committee feels that these words could be defined in the Interpretation Section of the Act.

Recommendation: That the interpretation of "rateable property" be placed in the Interpretation Section.

That section 281 be deleted.

SECTION 282 (13)

Observations and

Recommendation: This section has been dealt with under section 252. (See page 36)

SECTION 284

Observations: Subsection 2 of section 284 provides that the amount to be placed in a fund for the liquidation of the principal of the debentures shall be calculated on an estimated interest rate not exceeding 3 per cent per annum. The rate stated is a very conservative figure compared to present market standards and the Committee feels that it might be raised to a more current figure.

Recommendation: That the interest rate be changed from 3 per cent to 5 per cent per annum.

SECTION 286

Observations: Section 286 provides that a municipal corporation with the assent of the electors may incur any debt, the payment of which is not provided for in the estimates of the current year. This section should be read in conjunction with the provisions of The Ontario Municipal Board Act. The Committee is of the opinion that in practice the assent of the electors is seldom sought as generally the approval of the Ontario Municipal Board is substituted therefor.

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The reference to a two-third vote of council in subsection 3, clause (h) should be deleted as the Committee feels that the affairs of the council should be governed by a majority vote of the members thereof.

Recommendation: That the approval of the Ontario Municipal Board be substituted for the assent of the electors in all cases involving the incurring of a debt, the payment of which is not provided for in the estimates of the current year.

That the reference to the two-thirds vote be deleted and that the affairs of the council be determined by a majority vote of the members thereof.

SECTION 287

Observations: Section 287 provides that a municipal corporation may enter into a contract for the supply of a public utility service with the assent of the electors.

Recommendation: That a municipal corporation be permitted to enter into a contract for the supply of a public utility service with the approval of the Ontario Municipal Board, reserving the right to the Ontario Municipal Board to direct a vote of the people.

SECTION 292

Observations: This section provides for every municipal officer to be penalized for the refusal or neglect to carry out his duties.

Recommendation: That a general penalty clause be enacted so as to apply to all illegal acts of omission or commission.

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SECTION 293

Observations: This section provides for the registration and quashing of money by-laws. The Committee has recommended (see section 280, page 40) that an application to quash a by-law, other than a money by-law, may be made at any time. Section 293 should also be amended in conjunction with section 280 to provide that a money by-law may similarly be quashed at any time, subject to the provisions of The Ontario Municipal Board Act (Section 61). The Committee is of the opinion that the reference to registration of a money by-law is of little consequence as it is only permissive.

Recommendation: That section 293 be revised in conjunction with section 280 to provide that money by-laws may be quashed at any time subject to section 61 of The Ontario Municipal Board Act.

That the reference to registration of money by-laws be deleted.

PART XIII YEARLY RATES AND ESTIMATES

SECTION 294a

Observations: Prior to the adoption of the estimates for the current year the council of a local municipality may levy a sum not exceeding fifty per cent of the amount produced by the application of the previous year's general purpose public school residential rate to the assessment for real property, according to the last revised assessment roll. The Committee can see no reason for the exclusion of business assessment or the limitation of the rate to that applied to residential property.

Recommendation: That section 294a be amended to apply to business assessment as well as real property assessment and that the rate applicable be either commercial or residential according to the use of the property.

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SECTION 297

Observations: At present the council of a municipality must include in the tax levy the funds required for school purposes and for various boards and commissions. In some instances the council has no jurisdiction over the budget submitted and acts only as a collection agency. The municipal council is responsible for the provision of certain services, and addition of the budgets over which it has no control may produce an unreasonably high tax levy. The Committee believes that the municipal council should be given the right to establish the priority of need for all the services to be provided. A council may by by-law establish the date when the estimates shall be submitted by all boards and commissions for which the municipality is required to levy. Should the estimates not be received within the time prescribed delay will occur in the setting of the tax rate and the presentation of the tax bills. The Committee believes that non-receipt of the estimates of a board or commission within the time specified in the by-law should not be permitted to delay the council in establishing the tax rate.

Recommendation: That section 297 be amended to provide that a local council may amend rates or otherwise alter, with the approval of the appropriate minister, the estimates of any board, commission or other body for which the council is by law required to levy and rate.

That where a board or commission or other body fails to file its estimates within the time stipulated in the council's by-law, the council may levy a rate not exceeding the rate which was included in the tax levy of the preceding year for the board, commission or body concerned.

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SECTION 298

Observations: This section deals with reserve funds and provides for a two-thirds vote. It has been recommended that where a two-thirds vote appears it shall be replaced by a majority vote of all the members of the council.

Recommendation: That section 298 be amended to delete the necessity for a two-thirds vote of the members of a council, board, commission or local authority and that only a majority vote of all the members be required.

SECTION 299

Observations: This section provides that a municipal corporation with the approval of the Department of Municipal Affairs may spend contributions made by subdividers if they are not needed for the purpose for which they were collected.

Recommendation: That the approval of the Department of Municipal Affairs be not necessary for the expenditure of contributions made by subdividers not required for the purposes for which they were collected.

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SECTION 301

Observations: This section contemplates the fiscal year of the municipality commencing on the first day of January. In the event that the fiscal year does not commence on the first day of January as has been suggested, this section should be amended accordingly. (See section 246 - page 34)

Recommendation: That this section be amended to read that the rates imposed for any year shall be deemed to have been imposed and be due on and from the first day of the fiscal year unless otherwise expressly provided in the by-law by which they are imposed.

PART XIV RESPECTING FINANCES

SECTION 302

Observations: Moneys not immediately required by the municipality may be invested in securities named or in fixed-term deposits with any chartered bank. It was submitted that Canadian Trust Companies now provide adequate security to permit them to be a depository for public funds and that the higher rate of interest paid would be an acceptable addition to municipal funds.

Recommendation: That this section be amended to permit municipalities to invest monies not required immediately in fixed-term deposits with any Canadian Trust Company.

SECTION 303

Observations: The present legislation respecting the keeping of separate accounts and special accounts should be clarified to make it plain

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that not only separate accounting but also separate bank accounts are required.

Recommendation: That this section and all relevant sections in The Municipal Act be amended to make it clear that separate bank accounts are required.

SECTION 304

Observations: Section 304 permits cities to consolidate the interest upon every debt and also to consolidate its sinking funds of every debt. The Committee feels this should be applicable to all municipalities.

Recommendation: That all municipalities be permitted to consolidate their interest accounts upon all debts and to consolidate their sinking funds.

SECTION 320

Observations: Section 320 pertains to the issuance of a commission of inquiry into financial affairs of any municipality or local board.

Recommendation: That there be a uniform procedure for the initiation of an inquiry as recommended under section 241. (See page 33)

SECTION 323

Observations: No provision is made for the treasurer to delegate authority for the carrying out of routine procedures in the transferring of ownership of debentures issued by the municipality. The Committee believes that the treasurer should be permitted to delegate his authority for the making of the necessary record.

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Recommendation: That section 323 be amended to enable an official authorized by the treasurer to perform the duties of the treasurer under this section.

SECTION 329

Observations: Section 329 pertains to temporary borrowing by municipalities. The limit set upon the amount that may be borrowed under subsection 1 is stated in almost identical terms in subsections 2 and 3. The earlier subsection appears to apply before any revenue on account of the current year has been received and the later subsection applies at any other time. Subsection 3 appears to adequately cover the situation.

Recommendation: That subsection 2 be deleted.

Observations: Subsection 4 of this section states that at any time after June 30th the treasurer is required to furnish to the lender certain information but is not required to state the amount of revenue received in the current year. The Committee believes that a lender should be entitled to a full statement of the facts whenever a loan is made under this section.

Recommendation: That section 329 (4) be amended by deleting the reference to June 30th and making it necessary for the municipality to submit a full statement to the lender, including the revenue received in the current year.

Observations: Deletion of subsection 2 necessitates the deletion of the reference to this subsection in subsection 5 and an amendment should be made to provide for disclosure of information regarding the amount of revenue of the current year already collected.

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Recommendation: That subsection 5 of section 329 be amended to provide that until such estimates are adopted, the limitations upon borrowing prescribed by subsection 3 shall temporarily be calculated upon the estimated revenues of the corporation as set forth in the estimate adopted for the next preceding year less the amount of revenue of the current year already collected.

PART XV ACQUISITION OF LAND AND COMPENSATION

SECTIONS 338 and 339

Observations: These sections give a local municipality the right to pass a by-law that freezes land for the future establishment, extension or widening of a highway. Factors to be considered in the way of compensation are expressed and limitations are imposed in this regard but the Ontario Municipal Board has authority to grant special relief in certain cases. These sections are not as important today because of the development of community planning. The adoption of an official plan often establishes the long-term road requirements of a municipality. The imposition of zoning by-laws implement the official plan and regulate the setback of buildings and structures from the roads. The Committee is of the opinion that these sections are no longer required.

Recommendation: That sections 338 and 339 be repealed.

SECTIONS 340 to 346 Inclusive

Observations: These sections in general pertain to compensation for expropriation, injurious affection and payment of money into court by the expropriating authority. In the event that a

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uniform Expropriation Act is passed, as recommended by the Select Committee on Land Expropriation, these sections would not be necessary as no doubt the subject matter would be embodied in that Act.

Recommendation: That these sections be repealed if a new Expropriations Act is passed in accordance with the recommendations made by the Select Committee on Land Expropriation.

PART XVI ARBITRATIONS

SECTIONS 347 to 349 Inclusive

Observations: These sections pertain to arbitrations. The observations of the Select Committee on Land Expropriation in connection with the tribunal that determines the compensation are sound and the Committee concurs in the establishment of a special tribunal as therein recommended. If the recommendations of the Select Committee on Land Expropriation in this regard are adopted and the necessary legislation enacted there would be no need for these sections.

Recommendation: That sections 347 to 349 be repealed if the recommendations of the Select Committee on Land Expropriation in this regard are adopted and the necessary legislation enacted.

PART XVIII RESPECTING THE ADMINISTRATION OF JUSTICE

SECTIONS 352 to 375 Inclusive

Observations: Sections 352 and 353 provide that every city and town must establish and maintain a police office and accommodation for the officers con-

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nected with it. Sections 354 to 357 inclusive, pertain to the establishment of court houses and jails. Sections 358 to 362 inclusive, relate to the care of court houses and jails and sections 363 to 375 inclusive, deal with the costs and expenses of court houses and jails. Municipalities are the agents of the Province in matters respecting the administration of justice.

Recommendation: That consideration be given to implementing the recommendations of the Select Committee appointed by the Legislative Assembly of the Province of Ontario to study and report upon problems of delinquent individuals and custodial questions, and the place of reform institutions therein in connection with jails and that the Province assume the total cost of the administration of justice.

PART XIX POWERS TO PASS BY-LAWS

SECTIONS 377 to 411 Inclusive

Observations: These sections enable municipalities to pass by-laws for numerous specified purposes without being set out in any logical order by subject matter or otherwise. Included in these sections, among other things, is the power to license, prohibit and regulate.

Certain sections pertain only to a particular class of municipality, others to a municipality in unorganized territory and still others to a municipality having a specified population. Some sections include a board of commissioners of police in cities generally, or according to population.

The class or size of a municipality no longer appears to be a valid criterion for determining a municipality's powers.

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Certain sections of The Municipal Act deal with building restrictions and building by-laws. Section 31 of The Planning Act presently provides for the passing of building by-laws. The Committee is of the opinion that all legislation governing building by-laws should be in The Municipal Act and that provision should be made for an expiration date of a building permit. (See The Planning Act-sec.31,p.91)

Representation was made requesting legislation to enable a municipality to enter into an agreement with any other municipality or person for ambulance service.

Recommendation: That all municipalities be given similar powers under these sections and that the powers be segregated by subject matter.

That the provisions of section 31 of The Planning Act pertaining to building by-laws be incorporated into The Municipal Act and that there be provision for an expiration date of a building permit and any renewal thereof.

That legislation be enacted to enable a municipality to enter into an agreement with any other municipality or person for ambulance service upon such terms and conditions and for such consideration based on cost as may be agreed upon, provided that notwithstanding the provisions of any such agreement no liability accrues to the municipality or person for failing to supply the use of ambulance service.

SECTION 379

Observations and

Recommendation: This section has been dealt with under section 40. (See pages 18 and 19)

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PART XXII POLICE VILLAGES

SECTIONS 487 to 490 Inclusive

Observations: These sections provide for the erection and annexation of additional territory to police villages in counties and provisional judicial districts. There is very little justification for police villages in Ontario and either of two courses of action could be taken. Firstly, all police villages could be dissolved within a stipulated period of time so as to enable the present police villages to apply for village or town status, or be absorbed as part of the township in which they are geographically located. Secondly, the formation of police villages could be prohibited.

Recommendation: That the formation and addition of territory to police villages be discontinued and that sections 487 to 490 inclusive be repealed.

SECTION 514

Observations: Under certain conditions the board of trustees of a police village may be incorporated. Should the above recommendation in regard to police villages be implemented the incorporation of boards of trustees should no longer be permitted.

Recommendation: That section 514 be repealed.

THE MUNICIPAL ACTFORM 7

Observations: Adoption of the recommendations made under section 97 will require amendment of Form 7 - Directions for the Guidance of Voters in Voting.

Recommendation: That the necessary changes be made in Form 7 to bring it into conformity with recommendations re section 97 which may be adopted.

FORM 12

Observations: Item 2 of Form 12 should be amended to conform with the recommendation made in section 37.

Recommendation: That item 2 be brought into conformity with the recommended revision of section 37. (See page 18)

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R.S.O. 1960, C. 23
as amended in 1960-61 and 1961-62

RECOMMENDATIONS

Observations: From the many submissions received, and after a detailed study, it would appear that many sections of the present Act deal exclusively with assessment principles and procedures, while others deal with taxation principles and procedures. It is noted that the sections dealing with assessment and taxation are intermingled to a degree that makes it difficult for a person to ascertain the portion in which he is interested.

Recommendation: That those sections of the Act dealing specifically with assessment be placed under the general heading "Assessment" and those sections dealing specifically with taxation be placed under the general heading "Taxation".

INTERPRETATION

SECTION 1

Observations: The Committee noted that some of the Acts dealing with municipal law contain interpretations which are applicable only to that particular Act, and interpretation sections in some Acts are entirely contrary to those found in other Acts. It was also ascertained that in some Acts interpretations were inserted for the purpose of the particular section only and other sections contain different provisions. For example, the acreage of a farm necessary to permit a farmer's son, daughter, etc. to vote at municipal elections (24.1.a) is different than the acreage of a farm necessary to allow for the exemption from mill rates for certain municipal services which do not benefit the land (37.1).

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Recommendation: That where possible uniform definitions should apply to all sections of municipal legislation.

EXEMPTIONS

SECTION 4

Observations: The Committee noted the large number of tax-exempt properties in Ontario. This means that properties exempt from taxation receive the benefit of municipal services, the cost of which is borne by properties subject to taxation. Many of these exemptions are authorized by public and private Acts. In many cases provision has been made to leave the exemption to the discretion of the municipal council. Some of the Acts, e.g., The Assessment Act, The Local Improvement Act, have granted exemption in any municipality in Ontario. The Committee has given a great deal of study to this matter and realizes the need for certain organizations to enjoy the benefit of tax-exempt property so that they may carry on their worthwhile activities. Consideration was given to:

- (a) restricting the exemption to a percentage of the actual value of the property;
- (b) excluding from exemption certain types of properties which formerly enjoyed this privilege, such as cemetery plots sold for the purpose of profit or gain; and
- (c) allowing municipal councils to grant exemptions on an overall basis or to tax all properties and to make a grant up to the amount of the tax levied on exempt properties.

Recommendation: That property used solely for religious purposes be exempt from taxation.

That all future exemptions for properties used for charitable and community purposes be left to the discretion of the local municipal council.

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BUSINESS ASSESSMENT

SECTION 9

Observations: Many of the briefs dealt with the principle of business assessment and taxation. Reference was made frequently to the percentages applicable in the calculation of business assessment and pertained to both the numerous categories and wide divergence.

This legislation was enacted in 1904 and has remained virtually unchanged. It is probable that at that time there were logical economic reasons for the percentages allocated, however, changes in the economic status of some businesses makes the continuation of their use difficult to justify. Also new types of businesses have evolved and the multiplicity of rates increases the problem of allocation. Representations have been made that some types of business which have been in operation for many years are not allocated by all assessors to the same category. Several briefs have mentioned the diversity of the rates applied and one containing statistics covering a 54% sample of the member firms listed 17 rates ranging from less than 10% to over 60%. Many of the percentages listed do not conform to the provisions of the Act. Also some of the statistics supplied in response to a questionnaire sent to all municipalities gave an indication that the rates stated in the legislation are not being applied in all instances.

The assessed value of the land and buildings occupied is not indicative of either the volume or productivity of the business and it is possible that a tax levied on this base may bear most heavily on those least able to pay. Examination of the assessment statistics in the 1961 Annual Report of Municipal Statistics compiled by the Department of Municipal Affairs shows business assessment as 11%

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of total assessment. By class of municipality the percentages are: cities 12.8; Metropolitan Toronto 12.6; towns 11.0; separated towns 9.3; villages 8.2; and townships 4.5. It will be noticed that the higher percentages apply to the more urbanized communities, however, the differences in the economies of municipalities of the same class show wide variations. Cities vary from 9.5% to 19.0%, separated towns from 2.0% to 17.4% and the municipalities in the Metropolitan Toronto Area from 2.3% to 24.5%. The tax levied on the business assessment is calculated at the commercial rate, therefore, the proportion of tax revenue derived from this source is somewhat greater than the proportion of the business assessment to total assessment.

Several suggestions were made to the Committee including:

- (a) abolition of business assessment;
- (b) calculation of business assessment at a uniform percentage of the realty assessment;
- (c) that businesses be divided into four categories and that the percentages applicable be 30, 50, 60 and 75; and
- (d) that the businesses mentioned be arranged in some logical sequence, possibly alphabetical, with the applicable percentage stated.

Perhaps the right solution would be the elimination of the business tax but the problem then arises of raising the revenue thus lost.

In order that the Committee could be better informed a questionnaire was sent to each of the 937 municipalities requesting information regarding the incidence of and revenue from the tax levied on business assessment. A great deal of the information requested is not readily available from municipal assessment and financial records. The Committee is

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pleased to report that 349 useable returns were received (37.2% of all municipalities), including 100% of the municipalities comprising the Municipality of Metropolitan Toronto, 69% of the cities, 62.5% of the separated towns, 52.4% of the towns, 30.1% of the villages, 31.5% of the townships and 50.0% of the improvement districts.

The median of the average percentages applied in the calculation of the business assessment ranged from 47.6 in the municipalities comprising Metropolitan Toronto to 33.0 in the townships, and 35.8 for all the municipalities included in the survey. Adoption of the average of the percentages applied in the calculation of business assessment by every municipality would have resulted in an increase in the amount of the business assessment in 64.2% of the number of business assessments. It was noted that 60.6% of the assessments were calculated at less than 35%, with the largest number (46.4%) being calculated at 25%.

The tax levied on business assessment by percentage used in calculation of the business assessment, arranged in descending order of revenue derived is shown in the table below:

BUSINESS TAX LEVIED and NUMBER OF ASSESSMENTS
1961

| Basis of Calculation of Business Assessment | Business Tax Levied (Percentage) | Number of Assessments |
|--|--|--------------------------|
| 60% | 43.3 | 7.9 |
| 25% | 18.5 | 46.4 |
| 50% | 16.1 | 18.9 |
| 75% | 15.7 | 5.5 |
| 30% | 2.6 | 6.4 |
| 35% | 2.1 | 7.1 |
| 150% | 1.1 | * |
| 50% of 30% | 0.2 | 2.2 |
| 10% | 0.2 | 0.5 |
| Minimum \$100 | 0.1 | 5.1 |
| Other ** | 0.1 | * |
| | 100.0 | 100.0 |

* Less than 0.05%

** Not in accord with legislation.

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Business assessment at the minimum amount (\$100) and those calculated at less than 35% accounted for 60.6% of the number of assessments and 21.6% of the total tax levied thereon.

The Committee is conscious of the complexity of the problem and the considerable effect on the finances of some municipalities which might be the result of any change in the legislation.

Many businesses maintain a parking area for the convenience of their customers and business assessment on the parking area is calculated at the rate applicable to the type of business. There does not appear to be any logical reason for perpetuating the ten per cent rate applicable to land used as a supervised car park.

The distilling of beverage alcohol is a manufacturing process similar to the production of beer and other beverages. However, the original legislation established a rate of 150% on distillers, 75% on brewers and 60% on manufacturers of other beverages. The Committee feels that the spread in the rates applied to distillers and brewers is too wide.

Representations were made by several groups that, due to change in the economic status of their business, the rates applicable can no longer be justified and the suggestion made that the rate be adjusted downward. This is particularly valid for wholesale merchants.

In some instances the percentage is determined by the class or population of the municipality. The Committee is of the opinion that these are no longer valid bases for establishing the rate applicable.

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While persons operating hotels and motels are deemed to be carrying on a business and accordingly pay business tax, persons operating apartment buildings are not subject to business tax.

The minimum assessment of \$100 by today's standards is too low and should be increased.

The Committee also noted that while subsection 9 provides that where a person occupies or uses land partly for business and partly as a place of residence that the assessment is to be split in line with the portions used, but that this provision does not apply to business rated under section 9(1)(g). The Committee feels that this is unfair in many instances to persons assessed under this clause.

Recommendation:

- (1) That the businesses be divided into four categories and the percentages fixed at 25, 50, 60 and 75;
- (2) That the basis of calculating business assessment remain unchanged except as follows;
 - (a) distillers at 75 per cent;
 - (b) wholesale merchants at 50 per cent;
 - (c) retail coal or fuel oil dealers at 25 per cent;
 - (d) all land used for the parking of cars at 25 per cent (exemption for employee parking area allowed under section 9 (2) to be continued);
 - (e) that every person occupying or using land for the purpose of an apartment building containing more than six self-contained dwelling units shall be assessed for business purposes for a sum equal to 25 per cent of the assessed value of the land occupied or used for such apartment;

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- (f) all businesses assessed at 35 per cent and 30 per cent be reduced to 25 per cent and businesses presently assessed at 25 per cent remain unchanged;
 - (g) minimum assessment increased from \$100 to \$200; and
 - (h) the businesses be listed alphabetically with the percentage of assessment shown opposite each.
- (3) That section 9 (1)(g) be amended by deleting all the words after the word "value" in line 12;
 - (4) That section 9 (9) be amended by deleting all the words after the word "only," in the fourth line.

PREPARATION OF ASSESSMENT ROLLS

SECTION 20(1), paragraphs 14 and 15

Observations: Representations were made that some municipalities would prefer to prepare the assessment roll on a ward basis and not have to further break this down by school sections or polling subdivisions.

Recommendation: That municipalities have the option of preparing the assessment roll by wards, polling subdivisions, school areas or school sections.

ASSESSORS

SECTION 21

Observations: A number of representations were made that the Minister of Municipal Affairs should not only enact rules for the guidance of assessors but should also give some protection to assessors from dismissal without cause. The Committee was also informed of the

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course undertaken by the Association of Assessing Officers of Ontario to qualify assessors. It was noted that the examinations for the qualification of assessors under this course consisted only of written tests.

Recommendation: That the Minister of Municipal Affairs enact qualification tests for chief assessing officers of municipalities.

That chief assessing officers
be licensed annually.

That a chief assessing officer
who is licensed shall not be dismissed without the
approval of the Minister of Municipal Affairs.

SECTION 24

Observations: The Committee noted that this section of the Act which provides for the eligibility of farmers sons, daughters and sisters for municipal voting privileges is outmoded in view of modern conditions. It places those persons who actually reside and work on the farm in the same category as those who do not work on the farm but only reside on the farm in the evenings or weekends. In view of the Committee's recommendation to extend the franchise this section is no longer required. (See p. 18)

Recommendation: That section 24 be repealed.

VALUATION OF LANDS

SECTION 35

Observations: The Committee received numerous suggestions regarding the valuation of lands. After

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careful consideration the Committee is of the opinion that the present provisions of The Assessment Act are adequate, but often not properly applied.

Some representations were made that the Provincial Manual of Assessment Values be based on the values of a more recent year and that larger assessing units be created to permit the employment of full-time assessing personnel. The Committee was informed that the Department of Municipal Affairs is at the present time undertaking the production of a new edition of the manual.

Some representations were made suggesting that the present provisions regarding the assessment of golf courses be made applicable to farms. The Committee feels, however, that the two situations are not analogous and would not be workable for either the municipality or the farmer.

Recommendation: That the new edition of the manual be based on a three to five-year period of recent values.

That the manual be revised annually or at least every two years to meet with changing conditions or new types of building construction.

That where feasible the erection of larger assessing units be encouraged to facilitate the use of full-time assessing personnel.

ASSESSMENT OF PIPELINES

SECTION 41

Observations: At present, transmission pipelines are assessed in accordance with a fixed scale of rates as laid down in The Assessment Act. Distribution lines are assessed at actual value under the provisions of section 35. The Committee noted that the fixed rates laid down in the Act are based on 1940 costs of the pipe

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plus 20% and do not include such items of cost as wrappings and installation.

Representations were made to the Committee suggesting that the assessment of pipelines be placed on the gross receipts basis instead of the footage basis. The Committee also received representations that distribution lines be assessed in accordance with a fixed scale of rates in the same manner as transmission lines and also that they be assessed at their actual value.

Recommendation: That both transmission and distribution pipelines be assessed on the same basis either in accordance with a fixed scale of rates or at their actual value.

ASSESSMENT OF RAILWAY PROPERTY

SECTION 46

Observations: Consideration was given to the legislation regarding the method and the extent of the assessment of railway property as it pertained to actual conditions of today. There is no apparent reason why some railway lands are assessed at actual value in relation to the value of other land in the locality, while other railway property is assessed at its actual cash value as it would be appraised upon a sale to another company possessing similar powers, rights and franchises.

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Recommendation: That all railway lands and property be assessed at its actual value in accordance with the provisions of section 35.

QUINQUENNIAL RAILWAY ASSESSMENT

SECTION 47

Observations: For many years railways have been assessed on a five-year basis with the proviso that land included in the assessment that has ceased to belong to the company would be deducted therefrom and any additional land acquired would be added thereto.

Representations were made that the land and property of railways should be assessed on an annual basis as is other property in a municipality. However, the Committee is of the opinion that all assessments should be for a longer period than one year and that railway assessment should conform with the general provision as subsequently recommended.

Recommendation: That all railway lands and property be assessed on a three-year basis. (See p.69)

ADDITIONS TO COLLECTOR'S AND ASSESSMENT ROLLS

SECTIONS 53 and 54

Observations: Sections 53 and 54 make it incumbent upon the clerk of the municipality to add to the collector's roll for taxation for the balance of the current year and to the assessment roll for taxation in the following year the additional value of any property or newly created business, or, property that has ceased to be exempt from taxation. However, there is no statutory obligation on the part of an assessor to either prepare a list of supplementary assessments or a supplementary assessment roll.

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Recommendation: That sections 53 and 54 be amended to make it mandatory that the assessor prepare supplementary assessment rolls and to forward all necessary notices and to attach his affidavit to the rolls as prepared.

TIME OF MAKING ASSESSMENT AND RETURN OF ROLL

SECTIONS 56, 57, 72, 75 and 83

Observations: The Committee is of the opinion that if an equalized assessment is to be achieved, every part of the Act which has any bearing on the matter should be amended where necessary to assist in bringing this about. Provisions which have a bearing are the period of time necessary to make a proper assessment; the date for the return of the roll which enables sufficient time for the consideration of appeals; standard periods of time for appeals to all courts; and the composition of courts competent to deal with appeals.

It is the Committee's opinion that the making of a yearly assessment is not conducive to equalized assessment and that a longer period of time should be given, preferably three years. However, this should not operate to prevent persons from appealing their assessments annually if they so desire or to prevent the necessity of making changes in such matters as school support, ownership and tenancy. The assessed values as placed would remain the same, not only for the year of assessment but also for the two succeeding years unless there was a substantial change in the use or value of the property either due to appreciation or depreciation. The provisions of sections 53 and 54 would not be interfered with under this change.

There would not be as long a period necessary for the making of an assessment roll

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in any one year and the date for the return of the roll could be set back to give a longer period for the hearing of appeals and to insure that there was adequate time for the preparation of the voters' list and the collector's roll.

The period of time for appeals to the court of revision at the present time varies from 10 days to 14 days. Appeals to the county judge must be made within 10 days and appeals to the Ontario Municipal Board within 21 days after the notice of the decision appealed from has been given. This is somewhat confusing and unnecessary and should be made uniform.

It would also appear that the present courts designated to deal with appeals is somewhat less than ideal in that they are often not qualified to determine questions of assessment and value. A special tribunal should be substituted to hear appeals in lieu of the county judge and the Ontario Municipal Board. This special tribunal should be composed of personnel qualified on assessment and appraisal matters. The Select Committee on Land Expropriation recommended that a similar tribunal be established to deal with the assessment of compensation arising from expropriations. This Committee is of the opinion that this tribunal might be an appropriate body to hear assessment appeals from the decisions of the various courts of revision.

The present right of appeal to the Court of Appeal on matters of law should be retained. In addition, appeals should be permitted to the Supreme Court of Ontario in regard to questions of fact.

All notices of appeal from an assessment should be made to the clerk of the municipality instead of the assessment commissioner.

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Recommendation: That assessments be made each three-year period and the values applied in one year shall prevail for the two succeeding years, subject to alteration for any substantial change in the values during that period and preserving the annual right of appeal.

That the period for making the assessment shall be between the first day of January and the 31st day of August in each year with the roll to be returned not later than the first day of September in the same year.

That the time for appeal on all assessment matters be 21 days.

That appeals be first taken to the court of revision and from there to a special tribunal, thus dispensing with appeals to the county judge and the Ontario Municipal Board.

That appeals on questions of fact as well as on law be permitted to a Supreme Court Judge, and/or the Court of Appeal.

That notices of appeal from assessments be made to the clerk of the municipality.

ROTARY SYSTEM OF ASSESSMENT

SECTION 60

Observations: Section 60 provides for the rotary system of assessment either on a two-year or a three-year basis with the new values not to be used in any one part of the municipality until the whole municipality has been assessed on the new value basis. If the three-year interval of making assessments is adopted this section would be obsolete.

Recommendation: That this section be repealed.

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COURTS OF REVISION

SECTIONS 61 to 64 Inclusive

Observations: Sections 61, 62 and 63 deal with the appointment and composition of courts of revision in cities, while section 64 deals with these matters in other classes of municipalities. The Committee is of the opinion that the same legislation should apply to all municipalities with the exception of the Municipality of Metropolitan Toronto which has its own legislation. There is also a place for one-man courts of revision for which provision should be made.

Recommendation: That the council of any municipality be permitted to appoint as many one-man, three-man or five-man courts of revision as it deems necessary, the majority of whom shall form a quorum provided that no member of a municipal council shall be permitted to sit thereon.

SECTION 65

Observations: In counties where county assessors have been appointed, a county court of revision consisting of five members may be appointed to deal with questions of value only. The local municipalities appoint courts of revision to consider local improvement and tax matters. The Committee is of the opinion that one court should be empowered to deal with all matters that courts appointed by local municipalities are empowered to consider. It is difficult to obtain equalization of values between municipalities when no county court has been appointed. In only 12 of the 38 counties which have appointed county assessors has the county council seen fit to appoint a county court of revision.

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Recommendation: That in counties where a county assessor has been appointed the county council shall appoint a county court of revision consisting of three to five members, the majority of whom shall form a quorum. That no member of the county council shall be permitted to sit thereon. This county court of revision shall have all the jurisdiction and powers of a court of revision appointed by a local municipality.

That the county court of revision shall have the power to appoint additional court of revision commissioners and if necessary from among their own members, and the commissioners shall have the same powers as possessed by the court of revision.

That when a county court of revision is appointed no municipality shall have the power to constitute or continue a local court of revision.

WITNESS FEES

SECTION 71

Observations: It was brought to the Committee's attention that witness fees of \$3.00 per diem for persons summoned to appear before the court of revision or county judge are inadequate.

Recommendation: That the compensation payable to witnesses summoned to attend the court of revision or before a county judge be increased.

APPEALS TO COUNTY JUDGES AND THE ONTARIO MUNICIPAL BOARD

SECTIONS 75 and 83

Observations: The Committee has previously recommended that appeals to the county judge and the Ontario Municipal Board be eliminated and that appeals

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be made directly from the court of revision to a special court or tribunal. (See sections 56, 57, 72, 75 and 83 - pp. 67, 68 & 69)

Recommendation: That these sections pertaining to appeal procedure to the county judge and the Ontario Municipal Board be deleted from the Act.

That appropriate new sections be written in the Act to deal with appeals to a special court or tribunal.

APPEALS TO SUPREME COURT

SECTIONS 84 to 88 Inclusive

Observations: A review of these sections brought to the Committee's attention the principle that a person is subject to taxation even though the tax is based on an illegal assessment. This anomaly results from the limitation period placed on the time for bringing an appeal.

Recommendation: That no limitation be placed upon the time within which a Supreme Court action may be brought to set aside an assessment illegally made or a tax illegally imposed.

PENALTY FOR FAILURE OF CLERK TO CARRY OUT HIS DUTIES

SECTION 92

Observations: Section 92 provides a penalty for the failure of a clerk to carry out his duty and the amount of the penalty varies from other sections of the Act which similarly impose penalties.

Recommendation: That a general penalty section be enacted to apply to all illegal acts of omission or commission of all municipal officials.

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EQUALIZATION

SECTION 93 (2)

Observations: Representations were made to the Committee that the Minister of Municipal Affairs enact rules for the guidance of county assessors and that the exact duties of the county assessor be defined. As the Committee has made a recommendation that the Minister annually license all chief assessing officers of municipalities including county assessment commissioners and county assessors, the provisions of section 93 (2) providing for the presentation of rules for the guidance of county assessors is superfluous. While it is difficult to define the exact duties of a county assessor for all practical purposes, the real duty of a county assessor is to prepare an equalization report which is to form the basis of the county equalization outlined in section 93 (1).

Recommendation: That section 93 (2) be deleted.

COUNTY ASSESSMENT COMMISSIONER

SECTION 93a

Observations: A county council may, with unanimous assent of its members, appoint a county assessment commissioner. It is the Committee's view that the provision requiring unanimous assent of all members of county council is too stringent.

The Committee also noted that if the county was forced to purchase a considerable amount of equipment to operate this system it should be given a fair trial before it was abandoned.

Recommendation: That the appointment of a county assessment commissioner be made on the passing of a by-law by a majority of the members of the county council representing 50 per cent of the equalized assessment of the county.

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That once a by-law is passed by the county council appointing a county assessment commissioner it may not be repealed for a period of three years from the date of its passing and then only by a majority vote of the members of the council representing 50 per cent of the equalized assessment in the county.

COUNTY ASSESSOR APPOINTED AS LOCAL ASSESSOR

SECTION 93 b and THE MUNICIPAL ACT SECTION 227

Observations: The Committee noted that section 227 of The Municipal Act contains somewhat similar provisions to those of section 93b of The Assessment Act in connection with the appointment of the county assessor as the assessor for one or more local municipalities. It was also noted that some of the smaller cities and separated towns, while not forming part of the county for administrative purposes, are partners for certain county projects such as county health units, county libraries and high school districts. They pay their share of the cost on the basis of an equalized assessment. It is felt that some of these separated municipalities might want to employ the services of a competent county assessor or county assessment commissioner if the legislation permitted them to do so.

Recommendation: That section 227 of The Municipal Act be deleted and legislation enacted to permit any municipality to employ the county assessor or county assessment commissioner with the consent of the county council.

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APPEAL AS TO EQUALIZATION OF ASSESSMENTS

SECTION 96

Observations: The Committee noted that there are two methods by which an appeal may be made by a municipality against the equalization by-law as adopted by a county council. One is an appeal to the county judge and the other is to request the Minister of Municipal Affairs to appoint either the Ontario Municipal Board or a court comprising three persons to hear the appeal. The appeal must be launched within 20 days of the passing of the equalization by-law.

The Committee has recommended that all appeals dealing with assessment be determined by a special tribunal (sections 75 and 83) and that the uniform time for appeals be 21 days (sections 56, 57, 72, 75 and 83).

Recommendation: That appeals from equalization by-laws be heard by a special tribunal and the time for such appeals be 21 days.

MINIMUM TAX BILL

SECTION 111

Observations: In 1950, legislation was enacted to provide that where the taxes on any separately assessed parcel of land would be less than \$3.00 council could by by-law set a minimum tax of \$3.00.

In 1960, legislation was enacted to provide that the council could increase this minimum tax to \$6.00. Representations were made to the Committee that this amount was still too low.

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Recommendation: That a municipal council be empowered to render a minimum tax bill of \$10.00.

CERTIFICATE OF CURRENT TAXES

SECTION 119

Observations: Representations were made to the Committee that the fee payable to a tax collector for a certificate in respect to the status of current taxes is too low. The Committee noted that the fee is only 25¢.

Recommendation: That the amount of the fee be increased from 25¢ to \$1.00.

VACANCY ALLOWANCES, ETC.

SECTION 131

Observations: Many representations were made in regard to the provisions of section 131. It was noted that prior to 1900 a municipal council could by by-law authorize courts of revision to grant a refund or abatement of taxes to persons who claimed that they were unable to pay their taxes on the grounds of poverty or sickness. A number of years later the legislation was amended to enable a municipal council to pass a by-law authorizing the court of revision to grant vacancy allowances or an abatement of taxes under such terms and to the extent as provided in the by-law. The conditions and restrictions for such allowances varied greatly between municipalities and in 1944 the right of councils to pass these by-laws was withdrawn. In 1945, uniform provisions applicable to all municipalities were imposed by regulation. In 1953 these regulations were amended and incorporated in the Act. In 1957 an amendment provided that a claim for a refund or abatement of taxes could be made in respect of a pipeline not in use for a period of six months or more.

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The abatement or refund of taxes only applies to certain types of property and these properties must be offered for rent. Representation was made that the abatement should also apply to properties erected for the purpose of sale, but vacant and unsold because of insufficient demand. It was also argued that vacancy allowances should apply to furnished premises used only for a portion of the year even though no effort was made to rent them.

On the other hand representations were made that the present vacancy provisions should not apply to apartment units.

The Committee noted that while it is true that vacant property does not require school facilities, garbage collection and other municipal services, vacant property as a rule requires more police and fire protection than does occupied property.

Application to the court of revision for the cancellation, reduction or refund of business tax levied is not permitted where the business was intended to be or was capable of being carried on during a part of the year only. However, an application may be made when any business capable of and intended to be carried on for the full year was carried on for a part of the year only.

Another matter brought to the attention of the Committee was the injustice to owners of some types of property as a result of a change in use during the year of taxation due to the variance between the farm-residential mill rate and the commercial-industrial mill rate. The taxes for the following year on commercial property which is vacant on December 31st are levied at the residential mill rate. If the property becomes occupied during the year of taxation and business assessment applied against it under the provisions of section 53 the

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higher mill rate can be applied against both the real property and the business assessment for the balance of the year's taxes. However, no contrary provisions are in force where a property is used for commercial or industrial purposes and its use changes to residential during the taxation year.

Recommendation: That no refund or abatement of taxes be permitted because of vacancy or partial vacancy of the premises and in the case of a pipeline no refund or abatement should be made because of its non-use.

That business tax be made payable only for the portion of the year during which the business was carried on, notwithstanding that the business was intended to be or was capable of being carried on for part of the year only.

That where the use of a property changes from commercial or industrial to residential during the taxation year, the residential mill rate be levied against the assessment for the balance of the year.

SALE OF LAND FOR TAXES

SECTIONS 151 to 182 Inclusive, and
THE DEPARTMENT OF MUNICIPAL AFFAIRS ACT -
SECTIONS 47 to 54 Inclusive

Observations: The Committee noted that there are two methods of selling land for arrears of taxes. One method is provided for in The Assessment Act and the other method is provided for in The Department of Municipal Affairs Act. There is no need for duplication in this regard.

Recommendation: That the provisions of The Assessment Act respecting the sale of lands for tax arrears be repealed and the provisions of The Department of Municipal Affairs Act be adopted in this regard.

THE PLANNING ACT
R.S.O. 1960, C. 296
as amended in 1960-61 and 1961-62

RECOMMENDATIONS

The present Planning Act is divided into five parts, namely, Official Plans; Subdivision; Restricted Area and Building By-laws; Committees of Adjustment; and General.

INTERPRETATION SECTION

Observations: Counties have only the powers of municipalities in so far as official plans are concerned (2.9). If the county was made a municipality for all purposes of The Planning Act this would permit and possibly encourage counties to take a more active role in planning matters. Perhaps the county is not the ideal planning unit but it has the advantage of covering a broader area and is an existing political unit with defined boundaries.

Recommendation: The definition of "municipality" should include "county" under (1.g).

That when a county undertakes any of the matters authorized by this Act it can only do so on a majority vote of the members thereof representing 50 per cent of the equalized assessment and 50 per cent of the total population of the county.

That the jurisdiction and powers of every municipal council and every other person or authority within the municipality related to planning matters would be terminated upon the exercise by the county council of any of the powers contained within this Act.

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PART I OFFICIAL PLANS

PLANNING AREAS

Observations: "Planning Area" is defined as a planning area as defined by the Minister of Municipal Affairs (1.i) and consists of the whole or parts of such municipalities as the Minister considers a planning unit (2.2).

The extent of a planning area in so far as it affects a municipality should be determined by the local or county council. Provision is made in The Municipal Act for the creation by local municipalities of numerous service areas, such as sewer areas (379.1.52) and (380.4); water areas (379.1.52); fire areas (394.1 and 394.3); light areas (379.1.52); transportation areas (379.1.52 and 379.1.88); and garbage areas (379.1.77). Any alteration of these areas is made subject to the approval of the Ontario Municipal Board (Ontario Municipal Board Act (15)). There is no reason why the designation of a planning area should not similarly rest with the local or county council subject to the creation and any alteration thereof being approved by the Municipal Board.

Recommendation: That a planning area should comprise that area designated by the local or county council or as agreed upon when more than one council is involved.

That a planning area or any boundary change of a planning area should not become effective until it is approved by the Ontario Municipal Board.

PLANNING BOARDS

Observations: A planning board is appointed in most cases by the council of the local municipality, subject to the approval of the Minister of Municipal Affairs (3.1) and is a body corporate (4.1) having its own corporate seal (6) and

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separate legal identity. While members of the municipal council may sit on the planning board, they cannot constitute a majority of the members of the planning board (4.3). Members of the board who do not sit on council are appointed for three year terms with one-third of them retiring each year (4.5). Members of the board are eligible for reappointment (4.6) and may be paid a salary and expenses (7a). A planning board may hire employees and consultants (4.10) and shall prepare an annual budget which it submits to the council (7.1). Every planning board has a duty to investigate and survey the physical, social and economic conditions in relation to the development of the planning area and may perform such other duties of a planning nature as may be referred to it by council (10.1).

In effect, a planning board's function is to recommend to council (except in the matter of a consent to divide a parcel of land as distinguished from recommending a plan of subdivision (26.1.c)). This function of recommendation extends from official plans to restricted area by-laws. A planning board must of necessity rely heavily on its professional staff. While members of council often sit on planning boards, these boards do not have the close contact with the municipal inhabitants that the local councils possess. This is so in spite of the fact The Planning Act provides that every planning board shall hold public meetings and publish information for the purpose of obtaining the participation and co-operation of the inhabitants of the planning area (10.1.b). Except for joint planning areas, there is little merit in creating a planning board as a distinct legal entity apart from the municipal corporation.

Recommendation: That the planning boards as presently constituted be dissolved and that the present function of these boards be exercised by the local municipal council, county council or a committee of either council.

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OFFICIAL PLANS

Observations: An "official plan" is defined as a programme and policy,..... covering a planning area designed to secure the health, safety, convenience or welfare of the inhabitants of the area, and consisting of the texts and maps, describing such programme and policy,.....(1.h). A proposed official plan is recommended to the local council by its planning board for adoption (10.1.d) and, if adopted, it must be submitted to and approved by the Minister of Municipal Affairs before it becomes the official plan of the municipality (12). A county council can also adopt an official plan (2.9).

Once an official plan is in effect, no public work can be undertaken and no by-law can be passed that does not conform with or implement the plan (15.1). The procedure on an amendment of the official plan is similar to the procedure on its initial adoption (14.1). A municipality may, with the approval of the Minister of Municipal Affairs, buy, sell or lease land for the purpose of developing any feature of the official plan (19.1). There is no provision for the charging of a fee for the processing of an application to amend an official plan.

At present, an official plan is prepared by technical staff, reviewed by the planning board, revised if thought necessary, and recommended to council for adoption. The planning board may function to some degree as a buffer between the inhabitants and council with questionable result. However, there is little doubt that local councils must fulfill their duty to the people who elect them and in the final result the fate of an official plan rests primarily with the council. There is no real need for a separate planning board.

While an official plan must ordinarily be approved by the Minister of Municipal Affairs (12), it may be referred by him to the Ontario Municipal Board (14.3). All zoning by-laws must be approved by the Ontario Municipal Board (30.9) which implement an official plan. The

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Municipal Board may also deem a by-law to conform with the official plan (15.3). There is no logical reason why an official plan or any amendment or repeal thereof should not similarly be submitted for approval to the Municipal Board. The Ontario Municipal Board must approve all municipal spending apart from current expenditures (Ontario Municipal Board Act (67)). Yet a municipality must obtain the approval of the Minister of Municipal Affairs to buy, sell or lease land for the purpose of developing any feature of the official plan (19.1).

Representations have been made in regard to application fees payable by persons who desire to amend an official plan. This suggestion has certain merit as the taxpayers at large should not be called upon to finance individuals who may derive special benefit from such an amendment.

There is no specific procedure which is binding upon the municipality to give notice to the people affected by the proposed official plan or an amendment to the official plan.

Recommendation: That the adoption of an official plan, its amendment and repeal should rest completely with the local or county council on the basis of a majority vote of all members of council, subject to approval of the by-law by the Ontario Municipal Board.

That before an official plan is adopted or amended notice should be given to the people of the planning area by publishing a copy thereof in at least one newspaper having a general circulation in the planning area each week for at least three weeks before the hearing, stating the day, time and place of the meeting at which the plan will be considered.

That municipalities may, with the approval of the Ontario Municipal Board, buy, sell or lease land for the purpose of developing any feature of an official plan.

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That municipalities may charge a fee on an application for an amendment to an official plan.

REDEVELOPMENT

Observations: "Redevelopment" is the planning, replanning (design or redesign, resubdivision, clearance, development, reconstruction or rehabilitation) of a redevelopment area and the provision for such land use as may be appropriate (20.1.a). A "redevelopment area" is an area designated by council as desirable for redevelopment because of such things as age, dilapidation, overcrowding, faulty arrangement or unsuitability of buildings (20.1.b).

The council of a municipality that has an official plan may with the approval of the Minister of Municipal Affairs designate a redevelopment area which cannot be altered or dissolved without the approval of the Minister (20.2). However, the Minister may withdraw his approval and thereby dissolve the redevelopment area if he is not satisfied with the progress made by the municipality in acquiring land within the redevelopment area or in preparing a redevelopment plan (20.4).

"Redevelopment plan" is defined as a general scheme approved by the Municipal Board for the redevelopment of a redevelopment area (20.1.c). While the Municipal Board and not the Minister must approve a redevelopment plan (20.5) and any amendment thereof (20.7), nevertheless, the Minister and not the Ontario Municipal Board must approve the construction, repair, rehabilitation or improvement of buildings on land acquired in the redevelopment area and the sale or leasing of any such land and buildings (20.8). Debentures issued by a municipality for redevelopment may provide for such term of years as approved by the Municipal Board (20.10).

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While a redevelopment plan (20.5) and the money required to finance such a plan (20.10) must be approved by the Ontario Municipal Board, the redevelopment area must be approved by the Minister of Municipal Affairs (20.2). As mentioned previously (see Planning Areas - p. 80), the Ontario Municipal Board has jurisdiction to control the boundaries of other areas such as sewer areas and water areas.

Recommendation: That the establishment, alteration or dissolution of redevelopment areas by municipalities with official plans be subject to the approval of the Ontario Municipal Board rather than the Minister of Municipal Affairs.

PART II SUBDIVISIONS

AREAS OF SUBDIVISION CONTROL

Observations: An area of subdivision control is designated by the municipal council (26.1) and plans of subdivision within this area that have been registered for eight years or more may be deemed by council to be not registered (26.2). Certified copies of the municipal by-laws exercising this jurisdiction must be lodged in the office of the Minister of Municipal Affairs (26.6). An area of subdivision control cannot be altered or dissolved without the approval of the Minister (26.12).

The consent of the Minister of Municipal Affairs is not required for the establishment of an area of subdivision control and yet the Minister must consent to the alteration or dissolution of an area of subdivision control.

Recommendation: That the municipal clerk not be required to lodge with the Minister of Municipal Affairs certified copies of a subdivision control by-law, or a by-law deeming plans of subdivision not registered, and that

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the consent of the Minister not be required for the alteration or dissolution of an area of subdivision control established by the municipal council.

SUBDIVISION BY CONSENT

Observations: A municipal council may designate any area within the municipality as an area of subdivision control, whereupon for all practical purposes, no person is permitted to execute any document that has the effect of granting the use or right in land in the area for a period of 21 years or more, except in accordance with a registered plan of subdivision or by consent of the planning board unless the parcel being transferred is his entire holding or 10 acres or more in area and any remnant left is at least 10 acres in area (26.1). This restriction does not apply to the Dominion, Province or municipalities (26.1.d).

Where the land lies in more than one planning area, the consent must come from the planning board designated by the Minister of Municipal Affairs and where there is no planning board then the Minister must grant the consent (26.1.e.ii). Conditions similar to those that may be imposed as a condition of approval of a plan of subdivision may be imposed by the planning board or Minister granting the consent (26.13) and appeal lies to the Ontario Municipal Board if the application for consent is refused, not dealt with, or where the applicant is not satisfied with the conditions imposed (26.14). There is no provision for the payment of application fees on filing an application for consent to divide. If a municipality has not designated all or any part of the lands within its boundaries, an area of subdivision control, the Minister of Municipal Affairs may exercise the powers of council in regard to designating the areas not so designated, deeming plans not registered within these areas and granting consents to divide lands within these areas (27.1.b).

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The municipal council, in the final analysis, is responsible for the development and servicing of its municipality. Control should be where responsibility rests. The municipal council is in a better position than the planning board or Minister of Municipal Affairs to determine whether or not a consent to divide a parcel of land should be granted and, if so, the conditions, (such as the provision of municipal services) to be imposed. There is considerable justification for the charging of a fee on an application for consent to divide for the reasons expressed under the heading of "Official Plans".

Recommendation: That the granting of consents to divide and the conditions to be imposed be within the exclusive jurisdiction of the municipal council subject to the present right of appeal to the Ontario Municipal Board.

That a municipality should be permitted to charge an application fee on filing an application for consent to divide.

That the Minister of Municipal Affairs should not be permitted to usurp the function of council in regard to the designation of areas of subdivision control, deeming plans not registered and granting consents to divide.

PLANS OF SUBDIVISION

Observations: An application for approval of a plan of subdivision is made to the Minister of Municipal Affairs (28.1) who may confer with the relevant municipal officials and other public and private bodies (28.3) and impose such conditions to the approval as he thinks advisable (28.5). One of the conditions that the Minister may impose is the conveyance to the municipality of land for public purposes other than highways, not exceeding

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5 per cent of the land included in the plan (28.5.6) which may be sold with the approval of the Minister (28.9). Where an official plan is in effect indicating the municipality's ultimate land requirements for public purposes, the Minister may authorize a cash payment not exceeding the value of 5 per cent of the land included in the subdivision in lieu of a conveyance of land (28.8). These monies are paid into a special account for the acquisition, with the approval of the Minister, of lands for public purposes (28.10).

While the application for approval of a plan of subdivision is to the Minister of Municipal Affairs, in practice, the conditions imposed are those of the municipality after having scrutinized the plan and received the recommendations of its planning board. There is little doubt that the Department of Municipal Affairs plays a much more important role than that of a clearing house, especially in the guidance and assistance of smaller municipalities that do not have trained planning staffs. An application for approval of a plan of subdivision should be made to the municipality. However, the final approval of a plan should be left with the Minister of Municipal Affairs subject to the right of appeal to the Ontario Municipal Board. There has developed some inference that the lands conveyed for public purposes are really intended for park purposes and that cash payments in lieu of land are similarly ear-marked. This should be clarified. In addition, a municipality that has not adopted an official plan should be permitted to take cash payments in lieu of land dedication. Quite often the problem confronting a municipality is not the need to acquire additional lands but to improve those that they already have so that they can be enjoyed by the public. Cash payments in lieu of land dedication would assist in this regard and their expenditure for this purpose or for acquiring additional lands should not require the approval of the Minister of Municipal Affairs.

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Recommendation: That application for approval of a plan of subdivision be made to the municipality, the final approval remaining with the Minister of Municipal Affairs subject to a right of appeal to the Ontario Municipal Board.

That "public purposes" be defined to include such things as parks, fire halls, police stations and public utility stations.

That all municipalities, whether or not an official plan is in effect, be given the right to accept cash payments in lieu of land dedication and that such money be spent without the approval of the Minister of Municipal Affairs for the acquisition of lands or the development or improvement of existing public lands.

PART III RESTRICTED AREA & BUILDING BY-LAWS

RESTRICTED AREA BY-LAWS

Observations: Councils of municipalities have power to pass by-laws restricting the uses of land and the erection or use of buildings (30.1.1), provided that no part of any such by-law comes into force without the approval of the Ontario Municipal Board (30.9). The Municipal Board's approval does not become effective until it issues its formal order (30.17). The Minister of Municipal Affairs may similarly exercise by order and without approval of the Municipal Board like powers in respect of any land in Ontario not already zoned (27.1.a).

The Municipal Board may approve a zoning by-law for a limited period of time only and upon application may further extend such period from time to time (30.9). Before granting its approval the Municipal Board may direct the municipal council to give notice of its application to such persons as it deems fit (30.11).

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There is no provision in the Act to provide that before a zoning by-law is passed by the council that there shall be a public hearing before the council or the planning board after due notice to all persons affected by the proposed by-law.

The power given to municipalities to pass restricted area by-laws has supplanted to a large degree the practice of attaching restrictive covenants to conveyances of land and has become accepted as a part of modern community living. However, a similar power given to the Minister of Municipal Affairs strikes at the heart of municipal self-determination and should not be permitted.

While provision is made for the extension from time to time of a temporary approval by the Municipal Board of a zoning by-law, no reference is made as to what persons may apply for such extension or the procedure to be followed on such application. These matters should be clarified to permit any person whose property is affected to make the application upon proper notice to the municipality and to those persons as directed by the Municipal Board.

The application to the Municipal Board should be made after a public hearing has been held after due notice to all persons affected by the proposed by-law.

Recommendation: That the right of the Minister of Municipal Affairs to impose zoning restrictions be withdrawn.

That there shall be a public hearing before the council or a committee thereof after due notice to all persons affected by the proposed by-law.

That the municipality or any person whose property is affected by a restricted area by-law

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be given the right to make application to the Ontario Municipal Board to extend a temporary approval of such by-law and that notice of the application be given as directed by the Ontario Municipal Board.

That before a zoning by-law is passed, amended, or, before an application is made to the Ontario Municipal Board to extend the temporary approval of a zoning by-law a public hearing shall be held by the council after due notice to all the persons affected.

BUILDING BY-LAWS

Observations: Power is granted municipalities to regulate in detail the construction of buildings and structures in order to protect the health and safety of its inhabitants (31). However, there is no provision for an expiration date to be attached to a building permit or renewal privileges after the expiration date.

While slight amendment of the legislation regulating the issuance of building permits is suggested, it is difficult to understand the reason for this legislation being included in The Planning Act.

Recommendation: That a provision made for an expiration date be attached to a building permit or any renewal thereof and that legislation governing the issuance of building permits be deleted from The Planning Act and transferred to The Municipal Act.

PART IV COMMITTEES OF ADJUSTMENT

ESTABLISHMENT OF COMMITTEES OF ADJUSTMENT

Observations: A municipality that has passed a zoning by-law may have a committee of adjustment which

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is appointed by by-law (32a.1) and approved by the Minister of Municipal Affairs (32a.3). The procedure on appointment and tenure of office correspond with those of a planning board. However, a member of the council cannot sit on a committee of adjustment. As in the case of a planning board, a committee of adjustment may engage such employees and consultants as is deemed expedient (32a.9).

Recommendation: That a municipal council or a committee appointed by council be enabled to exercise all the powers as set out in sections 32a and 32b pertaining to committees of adjustment.

That the establishment, appointment of members and the operation of a committee of adjustment shall not be subject to the approval of the Minister of Municipal Affairs.

That the committee of adjustment not be empowered to engage employees and consultants.

PART V GENERAL

RIGHT TO RESTRAIN

Observations: A right to restrain by action any contravention of a municipal by-law that implements an official plan is given to a municipality, its planning board or a ratepayer (33).

It would be more effective if the procedure to enforce such by-laws was by way of application to a County Court Judge in Chambers.

Recommendation: That an order to restrain any contravention of a municipal by-law be made by a Judge of the County Court sitting in Chambers with the appropriate appeal procedure from any order so made.

THE LOCAL IMPROVEMENT ACT
R.S.O. 1960, C. 223
as amended in 1960-61 and 1961-62

RECOMMENDATIONS

INTERPRETATION

Observations: An examination of the Interpretation Section of The Local Improvement Act discloses that, while it is in the most part adequate, nevertheless, it requires some adjustment. In particular, there is mention of the word "boulevard" in the Act as a work that may be constructed or maintained (2.1.h.) and yet this word is not defined. While the word "bridge" is defined (1.2), the definition does not go far enough to include a sidewalk on a bridge. The word "owner" is defined (1.16) differently for townships than other municipalities in that for townships it includes a tenant for years, the unexpired term of whose tenancy extends for not less than the period during which the special assessment for the work is to be made.

The present interpretation section of The Local Improvement Act would be adequate if the word "boulevard" was defined and if the definition of "bridge" was extended to include sidewalks on a bridge and if "owner" was given the same meaning for all municipalities.

Recommendation: That the word "boulevard" be defined. That the definition of "bridge" be extended to include a sidewalk or sidewalks on a bridge. That the word "owner" be given the same meaning for all municipalities.

WORKS THAT MAY BE UNDERTAKEN AS
LOCAL IMPROVEMENTS

Observations: Works that may be undertaken as local improvements are listed in detail (2.1) and it is made clear that they do not include ordinary repair and maintenance (2.2). Once a work has been constructed, the municipal corporation has a duty to keep it in repair (59.1) and if it fails to do this at any time during the lifetime of the work, the owner or occupant of any lot specially assessed may

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apply to the judge of the county court or a judge of the Supreme Court for an order compelling the municipality to repair (60). Private drain connections, water service pipes and gas service pipes may be constructed as local improvements without petition where a sewer, watermain or gas main has been or is to be constructed, upon a majority vote of council (4). However, there is no provision to construct these private connections when the construction of a pavement, curb or sidewalk is contemplated.

There is also provision made for townships, towns and villages in unorganized territories to purchase a work that has already been constructed but which might have been undertaken as a local improvement (5).

Where the estimated cost of the opening, widening or extension of a street or the construction of a bridge exceeds \$50,000, persons who may be liable for special assessment are protected by giving them the right to file a notice of objection, in which case the work cannot be undertaken without the approval of the Ontario Municipal Board (6).

While the list of works that may be undertaken as local improvements is quite comprehensive, there is no reason why construction of private drain connections, water service pipes and gas service pipes should not be included. It may be reasonable and expedient to construct these works without petition prior to the construction of a sidewalk or curb or the laying of a pavement. This would eliminate the necessity of breaking out the sidewalk, curb and pavement in order to make a connection at a later date.

There is no apparent reason why the purchase of works that have been constructed by private persons, but which might have been constructed as local improvements, should be confined to townships, towns and villages in unorganized territory, especially in view of the

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large areas being developed in recent times by private persons.

The special provisions of The Local Improvement Act pertaining to the opening, widening or extension of a street, or the construction of a bridge where the estimated cost exceeds \$50,000, would not be necessary if a uniform procedure for undertaking local improvement works was implemented which gave adequate protection to the property owner in every instance.

Recommendation: That private drain connections, water service pipes and gas service pipes be included in the general list of works that may be undertaken as local improvements.

That all municipalities be given the power to purchase works that have been constructed by private persons but which are of a nature that they could have been constructed as local improvements.

That section 6 of The Local Improvement Act be deleted if the uniform procedure for undertaking local improvement works as recommended by this Committee is adopted.

PROCEDURE FOR UNDERTAKING WORK

Observations: There are four methods that may be employed to undertake a local improvement work (7). These are as follows:

- (a) on petition of the owners of lands affected;
- (b) on the initiative of council, without being petitioned;
- (c) by the municipal council on sanitary grounds;
- (d) by the municipal council without being petitioned (private connections (4) and forced locals (8)).

Basically either the work to be done is petitioned by the owners

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or is instituted on the initiative of the municipal council. If the work is petitioned to be done under (a) the municipal council is not compelled to pass the by-law to construct the work. If the municipal council employs the initiative plan under (b) the property owners affected may petition against the work, in which event it cannot be undertaken (12.1). However, if the local improvement is one that is considered necessary on sanitary grounds under (c) the landowners affected do not have the right to petition the council against it (9) but may apply by petition to the Ontario Municipal Board for relief. The municipal council may undertake to construct private drain connections, water service pipes or gas service pipes under certain circumstances without being petitioned under (d) and without the right of the landowners affected to petition against the work (4) and the approval of the Ontario Municipal Board is not necessary. In regard to certain other works (8), the municipal council may undertake the work without being petitioned and the property owners affected cannot petition against it but the approval of the Ontario Municipal Board must be obtained.

The various procedures available to undertake a local improvement work are not only confusing and unnecessary but also often ineffective. For example, property owners may petition council to construct a work as a local improvement but there is no onus on council to pass the necessary by-law to undertake the work. The municipal council however can initiate the work, but a proper petition can prevent the council from passing the by-law. Council may, nevertheless, undertake the work by obtaining the approval of the Ontario Municipal Board.

Recommendation: That the present procedure for undertaking local improvement works be deleted.

That a single procedure for all local improvement works be adopted and that the procedure be on the initiative of a majority vote of all the members of council after advertising its intention to do so and after serving notice either personally or by ordinary mail upon the property owners affected provided that no such by-laws shall come into force and effect without the approval of the Ontario Municipal Board.

THE LOCAL IMPROVEMENT ACT

HOW COST OF WORK TO BE BORNE

Observations: A local improvement work is for the benefit of the individual as opposed to the public at large and consequently the entire cost is generally assessed against the lands abutting directly on the work (20.1). Special allowance may be made for corner lots (20.4), triangular or irregularly shaped lots (28.1), lots unfit for building (28.2) or lots with two limits that abut on the works, so as to adjust the assessment on a fair and equitable basis. The municipal corporation is liable for so much of the cost of the work as is incurred at street intersections (23.c) and for certain other costs (23.a.b.) and may assume a larger share of the cost of other works such as sewers, watermains (24), sidewalks, curbs, pavements, street lighting (27), bridges, parks, squares and the opening or improvement of a street (32). If a municipality receives a cash contribution towards the cost of any work, it is deducted from the total cost of the work and the balance is deemed to be the actual cost of the work (21.1). However, where a contribution is applied towards the cost of constructing a work with greater capacity than required to serve the abutting lots, such contribution is applied to reduce the corporation's share (21.3).

If the flankage of a lot is exempted from a local improvement rate, and the flankage later becomes frontage, it may be assessed as though it was frontage at the time of the passing of the local improvement by-law (29.1), but the annual levy may not extend beyond 5 years after the payment of the debentures issued for the work (29.5).

When it is necessary to construct a sewer outlet through lands which are not benefited, the cost of same is deemed to be a part of the cost of the sewer and cannot be assessed against the lands abutting on the outlet (34).

Where lands not abutting directly on the work are equally benefited, an equal special rate per foot of frontage is assessed upon the lots (37), but if the lands are not equally benefited, areas of similar benefit are set aside and the lands assessed on an equal special rate per foot

THE LOCAL IMPROVEMENT ACT

frontage upon the lots in each area (38) where land is assessed in one block and becomes subdivided, the subdivision may be designated as an area and the special assessment levied against the new lots (39).

There is ample provision for the adjustment of inequities in the assessment of properties for local improvement works. There is even provision to readjust assessments in certain circumstances, as for example, when flankage becomes frontage in the subsequent development of lands it may be assessed as frontage. However, there is no authority to cancel an assessment against frontage which subsequently becomes flankage. Provision should be made to cover this contingency.

Cash contributions towards the cost of any local improvement work are deducted either from the total cost of the work or from the corporation's share. There is no provision to apply a cash contribution against any of the owners' share, or power vested in the municipal corporation to apply the contribution in any way that might be agreed upon by the contributor and the corporation. The Local Improvement Act should enable these things to be done.

While the cost of a sewer constructed as a local improvement includes the cost of an outlet through lands that are not benefited, there is no similar provision in regard to a watermain that may have to be laid through lands that do not receive any immediate benefit. There is no provision in either case for subsequently assessing lands that may at some future time benefit from these works. The present legislation should deal with these matters.

In addition, where the lands not abutting directly on the work are benefited, authority should be given to assess them on an area basis as well as on a frontage basis.

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Trunk sewers and watermains are often constructed by a municipality and financed not as a local improvement but by the corporation as a capital expenditure. At a subsequent date, lands in the area may be developed and improved, or, there may be lands abutting the work that might be specially benefited, as connections could be made so as to utilize the trunk main in the same manner as a lateral. The Local Improvement Act should provide that where the lands could be serviced in this way, they may be assessed on an equitable basis when connections are made, notwithstanding the fact that the sewer or watermain has already been installed.

Recommendation: That The Local Improvement Act be amended to permit the cancellation of an assessment against frontage which subsequently becomes flankage.

That cash contributions towards the cost of a local improvement work may be applied against an owner's share or in any way that might be agreed upon between the contributor and the corporation.

That section 34 of The Local Improvement Act be amended to include watermains and to provide that the abutting lands which receive no immediate benefit may subsequently be assessed in an area on frontage basis if at some future time they do benefit from these works.

That lands benefited by, but not abutting directly on the work, be assessed either on an area basis or a frontage basis.

That the local improvement procedure be permitted where a sewer or watermain has been constructed other than as a local improvement, but which work subsequently benefits abutting lands, and to provide that these lands may be assessed either on an area or frontage basis.

THE LOCAL IMPROVEMENT ACT

PROCEDURE FOR MAKING SPECIAL ASSESSMENT

Observations: The present provisions of The Local Improvement Act (40-51) adequately cover the various reports, statements, estimates and special assessment roll preliminary to undertaking the work. Appeal procedure is provided in regard to any lot specially assessed (51) to the Court of Revision, County Judge, Ontario Municipal Board and Court of Appeal.

The Court of Revision does not have jurisdiction to review or alter the corporation's share as opposed to the owner's share.

The present procedures for making special assessments under The Local Improvement Act are quite satisfactory. The appeal procedure should be the same as that recommended under The Assessment Act for the sake of uniformity and simplicity.

Recommendation: That the appeal procedure from an assessment made under The Assessment Act apply to appeals from a special assessment made under The Local Improvement Act.

ASSESSMENT OF LAND EXEMPT FROM TAXATION

Observations: Lands on which are situate places of worship and seminaries of learning, except schools that receive a legislative grant or school tax, are liable to be specially assessed for local improvements (6). Lands exempt from local improvement rates under any general or special Act are assessed but the special assessments imposed thereon are paid by the municipal corporation (62).

While church lands and school property in certain instances are liable for local improvement charges, cemetery lands are not. Neither are lands in a local municipality owned by a county.

THE LOCAL IMPROVEMENT ACT

Recommendation: That land owned by or forming part of a cemetery operated for profit, and land in a local municipality owned by the corporation of a county, be liable for the payment of local improvement rates.

SPECIAL PROVISION AS TO TOWNSHIPS, TOWNS, VILLAGES, ETC.

Observations: In addition to the general list of works which may be undertaken by all municipalities, special authority is given to townships and villages to construct, renew or replace water works, sewage treatment works and the plant and equipment for street lighting (66).

All municipalities have the power to set aside certain defined areas in which even the cost of a work may be assessed and levied on the rateable property in the area (67.1), or in some circumstances assessed and levied part on a frontage basis and part on an area basis (67.2).

There is no apparent reason for the special provisions applying to townships and villages.

In regard to works constructed in defined areas, in some cases the property benefiting directly may be assessed a portion of the cost and the area may be responsible as a whole for the payment of the balance. However, there is at present no provision to assess the municipal corporation in addition to the defined area and the property owners who receive a special benefit from the work.

Recommendation: That the special provisions of The Local Improvement Act applying to townships and villages be deleted.

That provision be made for the corporation as a whole to assume a part of the cost of a work in addition to the cost to be borne by the defined area and the cost specially assessed against the properties in that area.

THE LOCAL IMPROVEMENT ACT

ADOPTION OF LOCAL IMPROVEMENT SYSTEM

Observations: A by-law may be passed with the assent of the municipal electors which provides that all works that may be undertaken as local improvements must be so undertaken (69.1).

It is unknown how many municipalities may have enacted such a by-law and whether these by-laws when enacted have been obeyed. However, there is no apparent reason for retaining this provision in The Local Improvement Act.

Recommendation: That the section of The Local Improvement Act providing for the adoption of the local improvement system by municipal by-law be deleted.

MISCELLANEOUS

Observations: The special assessment and rates for a local improvement work is not an encumbrance upon the lands as between vendor and purchaser (70). Local improvement proceedings undertaken by one council may be completed by a succeeding council (71) and the Ontario Municipal Board may approve of forms of by-laws, notices and other proceedings (72). Arbitration when required (5) is performed under The Municipal Act.

The miscellaneous provisions of The Local Improvement Act need no amendment. However, in the event that arbitration is necessary provision should be made for arbitration by the special tribunal as recommended by the Select Committee on Land Expropriation rather than by arbitration under The Municipal Act as presently constituted.

Recommendation: That arbitration under The Local Improvement Act be arbitration by the special tribunal contemplated by the Select Committee on Land Expropriation.

THE MUNICIPAL FRANCHISE EXTENSION ACT

R.S.O. 1960, C. 254

and

THE VOTERS' LISTS ACT

R.S.O. 1960, C. 420

Observations: The Municipal Franchise Extension Act enables municipalities to pass by-laws providing for the preparation of a resident voters' list, after the municipal electors have expressed their favour of extending the right to vote to the persons as therein set out. Participation in the administration of a municipality's affairs is no longer confined to persons who own property, nor do municipal services benefit only those persons with a real property interest.

Parts I and II of The Voters' Lists Act pertain to the preparation of the list of voters for municipal elections. These Parts should be transferred to The Municipal Act under the appropriate headings.

Recommendation: That the appropriate provisions of The Municipal Franchise Extension Act amended as recommended herein (see sec. 14, p. 14 and sec. 37, p. 18) be incorporated in The Municipal Act and that it not be necessary to submit the question for the assent of the electors.

That The Municipal Franchise Extension Act be repealed.

That Parts I and II of The Voters' Lists Act be transferred to The Municipal Act under the appropriate headings.

There is no royal road to the solution of the myriad problems facing municipalities today. Persistent and often tedious research, observation and study is essential to determine the fairest way to administer in the best manner the many matters that daily affect the lives of our citizens.

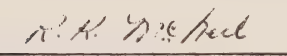
A highly complex society has developed in the past half-century that has brought with scientific success the need for social change. Stereotyped thinking must be reformed and a fresh and uninhibited approach taken in the task of amending the legislation to meet the modern adjustment of social rights, responsibilities and needs. The ramifications as applicable to municipalities are many and demand detailed consideration.

The Committee entertained numerous submissions that touched on forty different Provincial Statutes, in addition to the four that form the subject matter of this Interim Report. While specific recommendations are made, these should not be considered exhaustive or immutable. Further study and suggested reform of other legislation may dictate limited change of the Committee's present recommendations. In particular, the recommendations in respect of The Municipal Act are not intended to be complete. Time has not permitted the detailed study necessary to render constructive recommendations in regard to such matters as highways and bridges. This subject, for example, is embodied in numerous statutes and while the Committee is aware of the need to modernize and crystalize this legislation it will have to form the subject matter of a future report.


The Committee respectfully submits this Second Interim Report with the prayer that it be reappointed to continue with all the same persons and duties as heretofore and that a new Member be appointed to fill the vacancy caused by the resignation of Mr. Belisle.


Hollis E. Beckett, Chairman


Alfred H. Cowling


Ron. K. McNeil


D. Arthur Evans


Vernon M. Singer


George T. Gordon


Thomas D. Thomas


Donald H. Morrow

APPENDIX

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- B Letter to clerks of all municipalities, May 11th, 1961
- C Advertisement, Fall of 1962
- D Written Submissions
- E Attendances

INTERIM REPORT
of
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

November 23rd, 1961.

MEMBERS OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT AND RELATED ACTS

| | |
|---|---|
| Hollis E. Beckett, Q.C., Chairman | York East |
| Rheal Belisle | Nickel Belt |
| Alfred H. Cowling | High Park |
| Arthur Evans | Simcoe Centre |
| George T. Gordon | Brantford |
| Donald H. Morrow | Ottawa West |
| Ron. K. McNeil | Elgin |
| Vernon M. Singer | York Centre |
| Thomas D. Thomas | Oshawa |
| <hr/> | |
| (Mrs.) H. G. Rowan | Secretary to the Committee |
| R. B. Andrews | Assistant Secretary to the Committee |

To The Honourable
The Legislative Assembly of
The Province of Ontario

Parliament Buildings
Toronto, Ontario.
November 23rd, 1961.

Honourable Members:

On Monday, March 27th, 1961, during the Second Session of the Twentieth-sixth Parliament, the following motion was moved by The Honourable Leslie M. Frost, Q.C., Prime Minister of Ontario and seconded by The Honourable Wm. K. Warrender, Q.C., and duly carried:

"Ordered, That a Select Committee of this House be appointed to enquire into and review The Municipal Act of the Province and related Acts, including The Assessment Act, The Department of Municipal Affairs Act, The Local Improvement Act, The Ontario Municipal Board Act and The Planning Act, and the regulations made thereunder, for the purposes of modernizing, consolidating and simplifying such Acts and regulations and making such recommendations as may be necessary for their improvement.

And That the Select Committee have authority to sit during the interval between Sessions and have full power and authority to call for persons, papers and things and to examine witnesses under oath, and the Assembly doth command and compel attendance before the Committee of such persons and the production of such papers and things as it may deem necessary for any of its proceedings and deliberations, for which purpose the Honourable the Speaker may issue his warrant or warrants.

And that the said Committee consist of nine members, as follows:

Mr. Beckett (Chairman), Messrs. Belisle, Evans, Cowling, Gordon, Morrow, McNeil, Singer and Thomas.

Mrs. H. G. Rowan was appointed Secretary to the Committee and Mr. R. B. Andrews was appointed Assistant Secretary.

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The Committee held its first meeting on April 19th followed by sixteen meetings all held in the City of Toronto.

The General Index in Volume 5 of The Revised Statutes of Ontario 1960, lists under The Municipal Act, Volume 3, Chapter 249, forty-two related Acts including The Assessment Act, The Department of Municipal Affairs Act, The Local Improvement Act, The Ontario Municipal Board Act and The Planning Act.

On May 11th a letter was sent to the clerk of each municipality stating the terms of reference submitted by the Legislature to this Committee. It was requested that the clerk transmit this information to the persons etc. who might wish to present a brief or submissions, e.g., municipal council, other elected and appointed bodies, senior officials etc.

Thirty-one briefs or submissions have been received from municipalities and thirty from other organizations or individuals and we have been informed that several more will be submitted.

The Committee has reviewed The Municipal Act, The Department of Municipal Affairs Act, The Assessment Act, The Planning Act and The Local Improvement Act with the Minister of Municipal Affairs, the Assessment Commissioner of Metropolitan Toronto and the officials of the Department of Municipal Affairs; The Ontario Municipal Board Act with the Chairman of The Ontario Municipal Board; The Highway Improvement Act with the Municipal Engineer, Municipal Roads Branch, Department of Highways; The

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Conservation Authorities Act with the Director and Chief Conservation Engineer, Conservation and Parks Branch, Department of Commerce and Development; and The Voters' Lists Act with the Clerk of the Legislature.

The majority of the briefs and submissions filed have been read and discussed by the Committee. Several of the briefs and submissions received from different organizations referred to provisions of The Assessment Act regarding business assessment. The Committee felt that information should be obtained from the municipalities setting out the particulars of the business tax levied. About four hundred municipalities have replied to the questionnaire giving the Committee the required information.

The Committee wishes to thank the Minister of Municipal Affairs, the Assessment Commissioner of Metro and senior civil servants who have attended meetings and assisted in the understanding of the various Acts.

The terms of reference of the Committee stated ".....to enquire into and review The Municipal Act of the Province and related Acts,..... and the regulations made thereunder, for the purposes of modernizing, consolidating and simplifying such Acts and regulations and making such recommendations as may be necessary for their improvement."

The Prime Minister said on January 24th, 1961, when he introduced the notice of motion for the appointment of a Select Committee to enquire into and review The Municipal Act and related Acts of the Province".....the review of The Municipal Act and

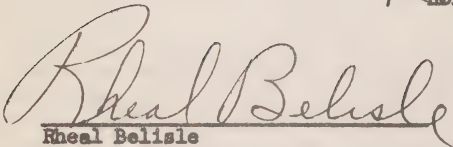
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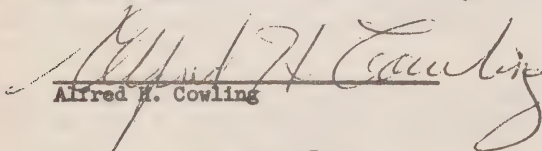
related Acts is a huge task which will involve a very considerable time, very probably a number of years."

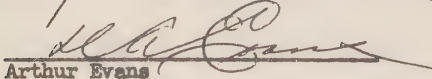
It is the considered opinion of the Committee that public meetings should be held at which all organizations or persons who have submitted a written submission be invited to appear in support of the submission filed and that those who have not heretofore made submissions be given the opportunity of appearing and offering constructive criticism.

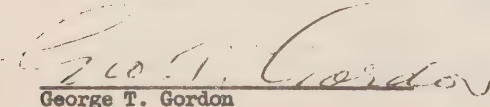
Because the field assigned is so extensive your Committee has not had time to complete its review of the legislation referred to it or to discuss the recommendations made with the authors of the briefs and submissions filed. The Committee therefor requests that its existence be extended in accordance with terms of reference of the resolution establishing this Select Committee.


Hollis E. Beckett, Chairman

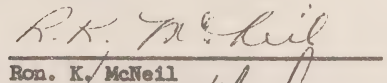

Rheal Belisle

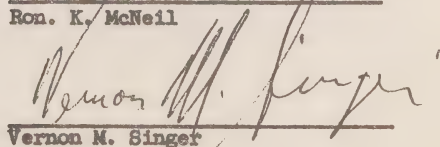

Alfred H. Cowling

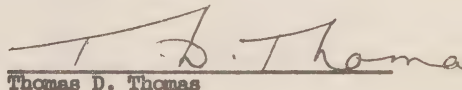

Arthur Evans


George T. Gordon


Donald H. Morrow


Ron. K. McNeil


Vernon M. Singer


Thomas D. Thomas



ONTARIO

LEGISLATIVE ASSEMBLY

SELECT COMMITTEE ON THE MUNICIPAL ACT AND RELATED ACTS

ROOM 377, PARLIAMENT BUILDINGS,

TORONTO 5

May 11, 1961.

To Clerks of all Municipalities:

A Select Committee on The Municipal Act and related Acts was appointed at the last Session of the Ontario Legislature with the following terms of reference -

"Ordered, That a Select Committee of this House be appointed to enquire into and review The Municipal Act of the Province and related Acts, including The Assessment Act, The Department of Municipal Affairs Act, The Local Improvement Act, The Ontario Municipal Board Act and The Planning Act, and the regulations made thereunder, for the purposes of modernizing, consolidating and simplifying such Acts and regulations and making such recommendations as may be necessary for their improvement."

This Select Committee has commenced its meetings and realizes that many municipal councils, other elected and appointed bodies and their senior officials may wish to present a brief or submission.

In order that we may plan the agendas of future meetings intelligently we would like to have some knowledge of the number of briefs we are likely to receive. We therefore request that, should you intend to present a brief or submission you will inform us of this intention by June 1st next. Should you so indicate you will be informed later of the date set for the presentation of the brief or submission and other pertinent information. Please address your reply to Mrs. H. G. Rowan, Secretary of this Committee.

Since we do not have a complete list of the persons in your municipality who should be informed of this matter we are addressing this request to you and would ask you to transmit it to the appropriate people.

Your co-operation will be appreciated.

Yours very truly,

A handwritten signature in dark ink, appearing to read "Hollis Beckett", written in a cursive style.

Hollis Beckett, Q.C., M.P.P.,
Chairman.



LEGISLATIVE ASSEMBLY

Select Committee on The Municipal Act and related Acts

The Select Committee appointed by the Legislative Assembly of the Province of Ontario "... to enquire into and review The Municipal Act of the Province and related Acts, including The Assessment Act, The Department of Municipal Affairs Act, the Local Improvement Act, The Ontario Municipal Board Act and The Planning Act, and the regulations made thereunder, for the purposes of modernizing, consolidating and simplifying such Acts and regulations and making such recommendations as may be necessary for their improvement" will continue to hold public meetings in Toronto commencing on September 26th.

Elected members and appointed officials of municipal governments, local boards, commissions etc., groups of persons and individuals are invited to present submissions pertaining to the legislation applicable to municipal government.

Notice of intention to make a submission to the Select Committee should be sent to the Secretary by September 13th. Notice of the time allocated for appearance will be given as soon as possible.

Hollis E. Beckett, Q.C., M.P.P., Mrs. H. G. Rowan, C.A.,
Chairman. Secretary.

Parliament Buildings,
Toronto. (Telephone 365-2241, Loc. 43)

WRITTEN SUBMISSIONS
MADE TO
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Municipalities

Ajax, Town of
Asphodel, Township of
Barrie, City of
Barrie, Township of
Blind River, Town of
Brantford, City of
Burlington, Town of
Derby, Township of
Dunnville, Town of
Falconbridge, Township of
Goderich, Town of
Kingston, City of
Lancaster, Township of
Lobo, Township of
London, City of
Long Branch, Village of
Melancthon, Township of
Neustadt, Village of
North Bay, City of
Ontario County Council
Otonabee, Township of
Ottawa, City of
Pittsburgh, Township of
Renfrew County and Warden's Committee of Renfrew County
St. Thomas, City of
Scarborough, Township of
Scarborough, Township of - Recreation and Parks Department
Somerville, Township of
Stisted, Township of
Sarnia, City of
Thornbury, Town of
Toronto, City of
Welland, County of
Wentworth County Council
Weston, Town of

Municipalities (continued)

Whitby, Township of
York, Township of
York East, Township of

Local Boards and Commissions

Burlington & Suburban Area Planning Board
Metropolitan School Board
Whitby Public Schools

Private Organizations and Individuals

Aggregate Producers Association of Ontario
Association of Assessing Officers of Ontario
Association of Canadian Distillers
Association of Ontario Counties
Association of Ontario Mayors and Reeves
Association of Professional Engineers, The
Association of Women Electors of Toronto
Automotive Transport Association of Ontario (Inc.)
Bell Telephone Company of Canada, The
Bolsover Resort Association
Bowling Proprietors Association of Ontario
Business and Professional Women's Club, The, London
Canadian Bankers' Association, The
Canadian Fraternal Association, The
Canadian Life Insurance Officers Association, The
Canadian Retail Coal Association Inc.
Canadian Textbook Publishers' Institute, The
Canadian Wholesale Council
City Engineers' Association of Ontario, The
Crockford, Oliver, E.
Direct Sellers Association
Donovan, Wm. T.
Garipey, Kenneth, A.
Gas and Petroleum Association of Ontario, The
Goodhead, Norman, C.
Grand Orange Lodge of Ontario West, The
Gray, A. J. B.
Guelph Property Owners Association

Private Organizations and Individuals (continued)

Haliburton Highlands Property Owners' Council
 Hepditch, G.D.
 Herman, Bernard, Q.C.
 Institute of Municipal Assessors
 Kerr, A.B.
 McDougall, Kenneth
 Medora & Wood Ratepayers' Association
 Metropolitan Toronto Police Association
 Metropolitan Toronto Public Utilities Co-ordinating Committee
 Mitchell Lake Cottage Ratepayers' Association
 Monument Builders of Canada Association Inc.
 Motion Picture Theatres Association of Ontario
 Muskoka Lakes Association
 National Concrete Products Association
 National House Builders Association, Ontario Council
 National Union of Public Employees, The (Ontario Division)
 National Union of Public Service Employees, CLC
 Norton, J.
 North York Community Council
 Oakville-Trafalgar Business Protective Bureau, Inc.
 Ontario Association of Real Estate Boards
 Ontario Chamber of Commerce, The
 Ontario Creamerymen's Association, The
 Ontario Federation of Agriculture
 Ontario Forest Industries Association
 Ontario Mining Association
 Ontario Municipal Association
 Ontario Municipal Association - Town & Village Section
 Ontario Parks Association
 Ontario Property Owners Association
 Ontario Retail Feed Dealers Association
 Ontario Retail Lumber Dealers Association Inc.
 Ontario Traffic Conference, The
 Ontario Travel Associations, The Joint Board of
 Periodical Press Association
 Petroleum Association of Ontario, The
 Police Association of Ontario
 Provincial Federation of Ontario Professional Fire Fighters, The
 Public School Trustees' Association of Ontario, Inc., The
 Seventh-Day Adventist Church in Canada (Ontario Conference)
 Simpson, Robert, M.
 Somerville Ratepayers' Association

Private Organizations and Individuals (continued)

Taxpayers Association of Kitchener
Toronto Parking Operators' Association, The
Trust Companies Association of Canada, The
Urban Development Institute, (Ontario Division)
Williams, John Reesor
York Township Citizens' Committee
York Township Ward 4 Ratepayers' Association

ATTENDANCES
UPON THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Municipalities

Ajax, Town of
Asphodel, Township of
Barrie, City of
Barrie, Township of
Brantford, City of
Derby, Township of
Kingston, City of
Lobo, Township of
London, City of
Long Branch, Village of
Neustadt, Village of
Ontario County Council
Ottawa, City of
Pittsburgh, Township of
St. Thomas, City of
Scarborough, Township of
Scarborough, Township of - Recreation and Parks Department
Somerville, Township of
Sarnia, City of
Toronto, City of
Welland, County of
Wentworth County Council
Whitby, Township of
York, Township of
York East, Township of

Local Boards and Commissions

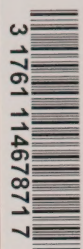
Metropolitan Separate School Board
Metropolitan School Board
Whitby Public Schools

Private Organizations and Individuals

Aggregate Producers Association of Ontario
 Association of Assessing Officers of Ontario
 Association of Canadian Distillers
 Association of Ontario Counties
 Association of Ontario Mayors and Reeves
 Association of Professional Engineers, The
 Association of Women Electors of Toronto
 Bolsover Resort Association
 Bowling Proprietors Association of Ontario
 Canadian Bankers' Association, The
 Canadian Fraternal Association, The
 Canadian Life Insurance Officers Association, The
 Canadian Retail Coal Association Inc.
 Canadian Textbook Publishers' Institute, The
 Canadian Wholesale Council
 City Engineers' Association of Ontario, The
 Crawford, Professor K, Grant
 Crockford, Oliver, E.
 Direct Sellers Association
 Gariepy, Kenneth, A.
 Gas and Petroleum Association of Ontario, The
 Goodhead, Norman, C.
 Grand Orange Lodge of Ontario West, The
 Gray, A.J.B.
 Guelph Property Owners Association
 Hepditch, G.D.
 Herman, Bernard, Q.C.
 Institute of Municipal Assessors
 Jones, Oakah, L.
 Kerr, A.B.
 Manning, H.E. , Q.C.
 Medora & Wood Ratepayers' Association
 Metropolitan Toronto Police Association
 Metropolitan Toronto Public Utilities Co-ordinating Committee
 Monument Builders of Canada Association Inc.
 Motion Picture Theatres Association of Ontario
 Muskoka Lakes Association
 National House Builders Association, Ontario Council
 National Union of Public Employees, The (Ontario Division)
 National Union of Public Service Employees, CLC
 Norton, J.

Private Organizations and Individuals (continued)

Oakville-Trafalgar Business Protective Bureau, Inc.
Ontario Association of Real Estate Boards
Ontario Creamerymen's Association, The
Ontario Federation of Agriculture
Ontario Forest Industries Association
Ontario Municipal Association
Ontario Municipal Association - Town & Village Section
Ontario Parks Association
Ontario Retail Feed Dealers Association
Ontario Retail Lumber Dealers Association Inc.
Ontario Traffic Conference, The
Ontario Travel Associations, The Joint Board of
Petroleum Association of Ontario, The
Police Association of Ontario
Provincial Federation of Ontario Professional Fire Fighters, The
Public School Trustees' Association of Ontario, Inc., The
Saunders, Leslie, H.
Scarborough Farmers & Associates
Seventh-Day Adventist Church in Canada (Ontario Conference)
Simpson, Robert, M.
Somerville Ratepayers' Association
Taxpayers Association of Kitchener
Toronto Parking Operators' Association, The
Trust Companies Association of Canada, The
Urban Development Institute (Ontario Division)
Whitton, Mayor Charlotte
Williams, John Reesor,
York Township Citizens' Committee
York Township Ward 4 Ratepayers' Association



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